TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 468.

RAFAEL MARIA DEL CASTILLO, PLAINTIFF IN ERROR,

vs.

WALTER L. McCONNICO, JOHN H. LANG, HORACE C. REESE, AND WILLIAM H. FITZPATRICK.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

FILED JULY 27, 1900.

(15,970.)

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

No. 307.

RAFAEL MARIA DEL CASTILLO, PLAINTIFF IN ERROR,

vs.

WALTER L. McCONNICO, JOHN H. LANG, HORACE C. REESE, AND WILLIAM H. FITZPATRICK.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

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1 STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans.

Petition. Filed March 12th, 1894.

Civil District Court for the Parish of Orleans.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. No. 42007. C'v'l Dist. Court, Division "E."

To the honorable the judges of the civil district court in and for the parish of Orleans:

The petition of Rafael Maria Del Castillo, a citizen of the Kingdom of Italy, residing at St. Remo, Italy, respectfully represents—

That he is the owner of certain property in the city of New Orleans, being—

"That square of ground, together with all the rights, privileges, customs, ways, servitudes, and whatever else may be thereunto belonging or in anywise appertaining, situated in Hurstville, parish of Jefferson, this State, bounded by Eleanor, Prytania, Pitt,
2 and Nashville streets, and designated by the number forty-eight (48) on a certain plan drawn by Benjamin Buisson, surveyor, dated the 17th day of March, 1837, and deposited for reference in the office of Wm. Boswell, late a notary in this city, said square measuring, according to said plan, three hundred (300) feet on Eleanor street and the same on Nashville street, and two hundred and forty (240) feet on Prytania street and the same on Pitt street;"

Which said property was acquired by petitioner from James Flint by act before Theodore Stark, notary public, on the 23rd of December, 1851.

Petitioner further represents that W. L. McConnico, a resident of this city and parish of Orleans, is now in the unlawful possession of said property, claiming to be the owner thereof by virtue of an act of sale from H. C. Reese, before J. Z. Spearing, notary public, of date the 2nd of March, 1893, recorded in conveyance office of this parish, in Book 147, folio 114, and by virtue of an act of sale from W. H. Fitzpatrick, before Omer Villere, notary public, of date March 9th, 1894, recorded in conveyance office, Book 151, folio 244.

That Willam H. Fitzpatrick and Horace C. Reese, both residents of this city and parish, claimed to be the owners thereof by virtue of an act of sale from one J. H. Lang, of date the 24th of February, 1892, before C. B. Upton, notary public; recorded in conveyance office of this parish, in Book 140, folio 512, and in mortgage office, Book 443, folio 596.

That the said John H. Lang claimed to be the owner of said property by virtue of an act of sale from Thomas L. Lallance to him passed on the 30th of January, 1891, before Jos. H. Spearing,

notary public; which said act is recorded in the conveyance office, in Book 136, folio 364, and in the mortgage office, in Book 419, folio 564.

That the said Thomas L. Lallance claimed to be the owner of said property by virtue of an act of sale from Orloff Lake to him passed on the first, 1st, day of December, 1885, before Jos. H. Spearing, notary public; which said act is recorded in the conveyance office, in Book 121, folio 990, and in the mortgage office, in Book 326, folio 180.

3 That the said Orloff Lake claimed to be the owner of said property by virtue of an act of sale from the State of Louisiana passed on the 4th day of November, 1885, before Jos. H. Spearing, notary public; which said act is recorded in the conveyance office, in Book 121, folio 899.

Now, your petitioner respectfully represents that he is the true and lawful owner of said property; that title thereto has never passed from him, and that he is entitled to the possession thereof.

That the said sales from H. C. Reese & W. H. Fitzpatrick to W. L. McConnico, from John H. Lang to W. H. Fitzpatrick and H. C. Reese, from Thos. L. Lallance to John H. Lang, and from State of Louisiana to Orloff Lake, hereinabove referred to, are absolutely null, void, and of no effect and operate as a cloud upon petitioner's title.

That in the sale from the State of Louisiana to O. Lake Joseph Desposito, deputy of James D. Houston, tax-collector, offered the said property for sale for the taxes for the years 1876, 1877, and 1878, and that for said years, though the property belonged to your petitioner, Rafael Maria Del Castillo, it was assessed as the property of R. Castillo and was advertised in the name of "Rafael Maria Del Castillo or *her* estate and heirs."

Petitioner further represents that said assessment, advertisement, and sale were absolutely null, void, and of no effect, and that the same has never divested petitioner of his ownership of the said property.

Petitioner alleges that said property is fully worth the sum of ten thousand dollars ($10,000), and that possession thereof is wrongfully and illegally detained from him by the said W. L. McConnico.

Wherefore, the premises considered, petitioner prays that the said W. L. McConnico be cited to appear and answer the demand in this petition contained, and, after due proceedings had, that there be judgment in favor of petitioner, decreeing the following acts to be absolutely null, void, and of no effect and ordering their cancellation:

1st. Acts of sale from H. C. Reese to W. L. McConnico, of
4 date March 2nd, 1893, recorded in C. O. Book 147, folio 114, & from W. H. Fitzpatrick to W. L. McConnico, of date March 9th, 1894, recorded in C. O. Book 157, folio 244.

2nd. Act of sale from J. H. Lang to W. H. Fitzpatrick and H. C. Reese, of date February 24, 1892, recorded in Conveyance Office Book 140, folio 512; Mortgage Office Book 443, folio 596.

3rd. The act from Thos. L. Lallance to John H. Lang, of date January 30th, 1891, recorded in Conveyance Office Book 419, folio 564.

4th. The act from Orloff Lake to Thos. L. Lallance, of date December 1st, 1885, recorded in Conveyance Office Book 121, folio 990; Mortgage Office Book 326, folio 180.

5th. The act from the State of Louisiana to Orloff Lake, of date November 4th, 1888, recorded in Conveyance Office Book 121, folio 899.

Further, petitioner prays that he may be decreed to be the true and lawful owner of said property, and that he be put in possession thereof.

Petitioner further prays for costs and for all such general and special relief as the nature of the case requires and law and equity grant.

(Signed) W. S. PARKERSON, *Att'y.*

3, 12, '94.

Answer of Defendant. Filed April 16th, 1894.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO } No. 42007. C'v'l Dist. Court, Division "E."

Now comes W. L. McConnico, made defendant herein, and, first reserving the benefit of all exceptions heretofore filed herein, for answer to plaintiff's petition denies all and singular the allegations therein contained except such as may be hereinafter specially admitted.

Further answering, defendant admits that he holds and is in possession of the property described by plaintiff as owner thereof;
5 that he purchased the undivided one-half thereof from Horace C. Reese, a resident of this city, per act before J. Z. Spearing, notary public, on March 2nd, 1893, for a consideration of two thousand three hundred dollars, and that he purchased the other undivided one-half thereof from Wm. H. Fitzpatrick, also a resident of this city, per act before Omer Villere, notary public, on March 9th, 1894, for a consideration of three thousand five hundred dollars, and that said Horace C. Reese and said Wm. H. Fitzpatrick are his warrantors. Defendant avers that his said two several purchases vest in him a good and absolute title to said property, and that said Reese and said Fitzpatrick should be called in warranty to defend the same. Defendant further specially pleads the prescription of two, three, and five years in bar of plaintiff's action.

Wherefore defendant prays that said Horace C. Reese and said Wm. H. Fitzpatrick be each cited to appear and answer this demand and call in warranty, and after due proceedings had that there be judgment herein in favor of the defendant and against said R. M. Del Castillo, plaintiff herein, dismissing this suit at his cost; but should the court decide that defendant's title to said property is

null, and in that event only, then defendant prays that he have judgment over against said Horace C. Reese for two thousand three hundred dollars, the amount paid by this defendant to said Reese for the undivided one-half of said property, and that this defendant also have judgment over against said Wm. H. Fitzpatrick for three thousand five hundred dollars, the amount paid to said Fitzpatrick for the other undivided one-half thereof, together with all costs, and for general and equitable relief.

(Signed) R. H. LEA, *Att'y.*

Judgment Appealed from. *Rendered February 11th, 1895.*

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. C'v'l Dist. Court, Division "E."

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For the reasons this day orally assigned by the court, the law and the evidence being in favor of defendant—

It is ordered, adjudged, and decreed that there be judgment in favor of defendant, W. L. McConnico, and against plaintiff, Rafael Del Castillo, rejecting said plaintiff's demand at his cost.

Judgment rendered February 11th, 1895.

Judgment signed February 15th, 1895.

(Signed) GEO. H. THEARD, *Judge.*

Motion of Appeal.

Extract of minutes of February 28th, 1895.

Present: The Honorable Geo. H. Theard, judge.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. C'v'l Dist. Court, Division "E."

On motion of Kernan & Wall and John Watt, attorneys for plaintiff, and on suggesting to the court that the judgment rendered herein on the 11th day of February and signed on the 15th day of February contains error to plaintiff's prejudice, and that he is injured and aggrieved thereby—

It is ordered that a devolutive appeal be granted therefrom to the supreme court of the State upon plaintiff giving a good and solvent bond, conditioned according to law, for the full sum of one hundred & fifty dollars.

The said appeal to be returnable in said court Monday, March the 18th, 1895, there not being sufficient time to complete that transcript by next return day.

Bond of Appeal. Filed March 27th, 1895.

7 R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. C'v'l Dist. Court, Division "E."

Know all men by these presents that we, Rafael M. Del Castillo, as principal, and John Watt, as surety, are held and firmly bound unto A. V. Flotte, clerk of the civil district court for the parish of Orleans, his successors, executors, administrators, and assigns, in the sum of one hundred and fifty dollars; for the payment whereof we bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seal and dated in the city of New Orleans, on the 15th day of March, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas the above-bounden Rafael M. Del Castillo has filed a motion of appeal from a final judgment rendered against him in the suit of Rafael M. Del Castillo *vs.* W. L. McConnico, J. H. Lang, & Horace C. Reese, called in warranty—

No. 42007 of the civil district court for the parish of Orleans, on the 11th day of February, 1895, and signed on the 15th day of February, 1895:

Now, the condition of the above obligation is such that the above-bound Rafael M. Del Castillo shall prosecute his said appeal and shall satisfy whatever judgment may be rendered against him, or that the same shall be satisfied by the proceeds of the sale of his estate, real or personal, if he be cast in the appeal; otherwise that the said John Watt, surety, shall be liable in his place.

(Signed) RAFAEL DEL CASTILLO,
Per JOHN WATT &
KERNAN & WALL, *Att'ys.* [SEAL.]
(Signed) JOHN WATT. [SEAL.]

Signed, sealed, and delivered in the presence of—
—— ——.

8 *Exceptions of Defendant. Filed M'ch 29th, 1894.*

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. Civil District Court, Division "E."

Now comes W. L. McConnico, made defendant herein, and excepts to plaintiff's petition upon the following grounds, to wit:

1st. That plaintiff's allegation that said property was sold by the State of Louisiana to Orloff Lake, one of defendant's authors, for the taxes for the years 1876, 1877, and 1878, and that the act executed in conformity with said sale, a duly certified copy whereof is hereto annexed as a part of this exception and marked "R" for reference,

was registered in the conveyance office of this parish, in Book 121, folio 899, shows that plaintiff is without any right of action herein; that said sale and the notarial act by plaintiff alleged, made in pursuance thereof, do, by the terms of the law, furnish full proof of the correctness of the proceedings complained of. and the law prohibiting plaintiff from contradicting same, his petition discloses *us* legal cause of action.

2nd. That plaintiff's right of action, if any be had, which is not admitted, but denied, is prescribed by the prescription of two, three, and five years, which are specially pleaded. Wherefore exceptor prays that these exceptions be maintained and this suit dismissed at plaintiff's cost.

R. H. LEA, *Att'y.*

Answer of W. H. Fitzpatrick & Call in Warranty. Filed Apr. 30, 1894.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. Civil District Court, Division "E."

Now comes William H. Fitzpatrick, called in warranty by W. L. McConnico, defendant herein, as his vendor of the undivided one-half of the square of ground herein in controversy, to defend this suit as warrantor of said W. H. McConnico to the extent of one undivided half thereof, and for answer to said call in warranty and the petition by plaintiff filed herein says that he denies all and singular the allegations in said call in warranty and in said petition contained, except in so far as may be hereinafter specially admitted. Further answering, defendant in warranty admits that he sold the undivided half of said square of ground to said W. L. McConnico, as stated in said call, and this respondent avers that his said sale and transfer vested in said W. L. McConnico an absolute and perfect title to said property and one which this court should sustain. This defendant in warranty further represents that he acquired title to the undivided half of said property by purchase from John H. Lang, a resident of Harrison county, Mississippi, per act before Charles B. Upton, Esq., notary public, on the 24th day of February, 1892, for a valuable consideration, to wit, the sum of $1,250, and that said John H. Lang is his warrantor; that at the time of his purchase from said Lang this defendant in warranty objected to the title tendered him by said Lang and refused to accept it, the same being founded upon a deed from the State of Louisiana in pursuance of a sale to one Orloff Lake for taxes due the State, under and by virtue of the provisions of act No. 82 of 1884, and that thereupon the said Lang filed a suit in this honorable court to compel this respondent and Kauffmann (his copurchaser) to accept said title and pay the price agreed upon for said property; that said suit, entitled and numbered John H. Lang *vs.* Kauffmann and Wm. H. Fitzpatrick, No. 34386, civil district court, was alloted to division A thereof, and was finally tried and decided

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against this respondent and said Kauffmann, and judgment was rendered therein compelling this respondent and said Kauffmann to accept the title so tendered by said Lang; that, relying upon said judgment, this respondent and said Kauffmann (who had in the meantime sold his interest to Horace C. Reese) accepted said title and paid the price agreed upon. This respondent hence avers that it would be against good conscience and equity to annul the
10 title of said McConnico and compel this respondent to return to him the price thereof when this respondent was forced by a judgment of this court to accept said title and part with a large sum of money for the same.

This defendant in warranty therefore avers that the title to said property transmitted by him to said W. L. McConnico and acquired as aforesaid from said John H. Lang is good and valid, and that said John H. Lang should be called in warranty to defend the same. This defendant in warranty further specially pleads that plaintiff's action is prescribed by the prescription of two, three, and five years. Wherefore this defendant in warranty prays that John H. Lang be cited to appear and answer this demand and call in warranty, and after due proceedings had there be judgment herein in favor of W. L. McConnico and against R. M. Del Castillo, plaintiff herein, dismissing this suit at said plaintiff's cost and confirming and quieting said W. L. McConnico in this title to said property and possession of the same, and that there be further judgment herein in favor of this defendant in warranty and against said W. L. McConnico dismissing this demand and call in warranty at the cost of said R. M. Del Castillo.

But should the court decide that this defendant in warranty acquired no title to said property from said Lang and transmitted none to said McConnico, then and in that event only this defendant in warranty prays that he have judgment over against said John H. Lang for twelve hundred and fifty dollars, the amount which this respondent was compelled by judgment of this honorable court to pay said Lang for said property, and for all costs and for general and equitable relief.

R. H. LEA,
Att'y for W. H. Fitzpatrick.

Order.

Let this answer and call in warranty be filed and served as prayed for and according to law.

New Orleans, April 30, 1894.

GEO. H. THEARD, *Judge.*

11 Service accepted and citation waived, reserving the benefit of all exceptions.

New Orleans, Apr. 30, '94.

J. ZACH. SPEARING,
Att'y for J. H. Lang.

Answer of H. C. Reese & Call in Warranty. Filed April 30, 1894.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO, H. C. REESE, *et al.*, in Warranty.
No. 42007. Civil District Court, Division "E."

Now, by his undersigned attorneys, comes Horace C. Reese, called and cited in warranty in this above numbered and entitled cause, and, answering to the demand in warranty of the defendant in said suit and to the petition of plaintiff therein, denies all and singular the averments thereof, save and accept such as are hereinafter expressly admitted.

He admits the sale of the property described in plaintiff's petition by this respondent and William H. Fitzpatrick, as recited in the answer and demand in warranty of said defendant.

He avers and shows that on the 24th day of February, 1892, by authentic act passed at the city of New Orleans before Charles Bringay Upton, notary public, this respondent and William H. Fitzpatrick purchased, jointly and in proportion of one undivided half each, from John H. Lang, a resident of Harrison county, State of Mississippi, the immovable property in plaintiff's petition described for the price and sum of twenty-five hundred dollars, of which eight hundred and thirty-three $\frac{33}{100}$ dollars *was* paid by said vendees at the passing of said act and a like sum one year thereafter, and a like sum one year after that, with interest upon said two credit portions of the price at the rate of eight per centum per annum from the date of said act of sale.

12 This respondent further shows that he accepted said title and paid his proportion—that is, one-half of said price—in obedience to and under and by virtue of a final judgment of this honorable court rendered and signed in the suit of J. H. Lang, respondent's vendor, *vs.* M. Kauffmann and William H. Fitzpatrick, numbered 34386 of the docket of said court, respondent having been subjected to all the rights, defences, and protections flowing from said judgment by said Kauffman, one of the defendants therein. Certified copies of said act of sale and final judgment will be produced and filed in evidence upon the trial of this case. Respondent avers that by reason of said act and said final judgment he acquired a good and valid title to the one undivided half of said immovable property and conveyed to said W. L. McConnico a like good and valid title to the same, and the said John H. Lang should be called in warranty to defend the same.

The respondent expressly pleads the prescription of two years, three years, and five years in bar of plaintiff's suit. Wherefore respondent prays that a curator be appointed to represent said John H. Lang herein, and that through said curator the said John H. Lang be duly cited to appear and answer to this demand and call in warranty, and that after due proceedings there be judgment in favor of defendant rejecting the demand of the plaintiff; but should

there be judgment in favor of the plaintiff and against the defendant, and in favor of the defendant and against the respondent, then and in that event that there be judgment in favor of this respondent against John H. Lang for the sum of twelve hundred and fifty dollars, together with interest thereon at the rate of five per centum per annum on one-third of said sum from February 24, 1894, and at the rate of eight per centum per annum from the same date on the remainder of said sum paid by this respondent to said John H. Lang for the one undivided half of said immovable property as aforesaid.

And he prays for costs and for general and equitable relief.

CLEGG & THORPE,
Att'ys for H. C. Reese in Warranty.

13 Let J. Zach. Spearing, Esquire, be appointed *curator ad hoc* to represent John H. Lang, absentee, as prayed above, and citation and other process be served on said absentee through said curator, as provided by law.

Service accepted, reserving benefit of all exceptions.

New Orleans, Apr. 30, '94.

J. ZACH. SPEARING,
Att'y for J. H. Lang.

Exceptions of Lang. Filed May 10, 1894.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO } No. 42007. Civil District Court, Div. E, Docket 5.

Now into court comes John H. Lang, called in warranty in this suit, and excepts to the petition of plaintiff and to the answer and call in warranty of H. C. Reese on the grounds:

(1.) That the same discloses no legal or valid cause of action against this exceptor.

(2.) That the action of plaintiff, if any he has or had, is prescribed by the prescription of one, two, three, and five years. Wherefore exceptor prays that these exceptions be maintained and the suit of plaintiff and the call in warranty of H. C. Reese be dismissed at their cost; and exceptor further prays for all general relief.

J. ZACH. SPEARING, *Att'y.*

Exceptions of J. H. Lang, Called in Warranty. Filed May 11, 1894.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO } No. 42007. Civil District Court, Div. E, Docket 5.

Now into court comes John H. Lang, called in warranty in this suit, and excepts to the petition of plaintiff and to the an-
14 swer and call in warranty of W. H. Fitzpatrick on the grounds:

(1.) That the same discloses no legal or valid cause of action against this exceptor.

(2.) That the action of plaintiff, if any he has or had, is prescribed by the prescription of one, two, three, and five years. Wherefore exceptor prays that these exceptions be maintained and the suit of plaintiff and the call in warranty of W. H. Fitzpatrick be dismissed at their costs; and exceptor further prays for all general relief.

J. ZACH. SPEARING, *Att'y.*

Answer of J. H. Lang to Call in Warranty by W. H. Fitzpatrick. Filed June 13th, 1894.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. Civil District Court, Div. E, Docket 5.

Now into court comes John H. Lang, called in warranty in this suit by W. H. Fitzpatrick, and, reserving the benefit of the exceptions heretofore filed by him and again pleading and urging the same as though they were herein fully and specifically set out, for answer to the petition and to the answer and call in warranty of said Fitzpatrick denies all and singular the allegations thereof, except what may be hereinafter specially admitted, *all* calls *of* strict proof of the allegations of plaintiff's petition, and especially of the fact that plaintiff ever was the owner of the property described in this petition.

Further answering, respondent admits that he sold one undivided half of the property described in plaintiff's petition to said Fitzpatrick by act of sale passed before Chas. B. Upton, not. pub., in this parish, dated February 24th, 1892, duly registered in the conveyance office, in Book 140, folio 512; but respondent avers and alleges that the title conveyed by him by said act was a good, valid, and complete title and transferred the said one undivided half
15 interest in said property to said Fitzpatrick in full ownership; that said title was duly and legally declared good, full, and complete and the said Fitzpatrick was ordered to take and accept the same by a judgment of this honorable court in proceedings entitled J. H. Lang *vs.* M. Kauffmann, No. 34386 of the docket of this court, which said judgment has been complied with by the said Fitzpatrick and the same is now final and binding on all parties; that said judgment and the matters and issues decided thereby cannot and should not be now disturbed.

Further answering, respondent admits, avers, and alleges that the property described in plaintiff's petition was purchased by respondent from Thomas L. Lallance by an act of sale passed before Jos. H. Spearing, late not. pub., on Jan. 30th, 1891; that said Lallance acquired said property by purchase from Orloff Lake by an act passed before said J. H. Spearing, late notary public, on Dec. 1st, 1885, and that the said Lake acquired said property from the State of Louisiana through the State tax-collector by an act passed before said J. H. Spearing, late not. pub., on Nov. 4th, 1885.

Further answering, respondent alleges that said sale to said Lake was made by said tax-collector under the provisions of act No. 82 of the legislature of the year 1884 for unpaid taxes due by the plaintiff (if he was the owner of the said property) on said property to the State of Louisiana for the years prior to December 31st, 1879; that by said sale to him said Lake acquired a good, full, valid, complete, and irredeemable title to said property, which said title was warranted and guaranteed by the said State of Louisiana; that by successive, regular, and legal conveyances the said title so conveyed to said Lake was acquired by respondent, and in turn conveyed by him to the said Fitzpatrick.

Further answering, respondent alleges that said Lake also acquired the possession of said property from the said State of Louisiana; that upon his said purchase said Lake took possession of said property, and the said possession was and had been duly transferred to and acquired by and held by the respective purchasers of said
16 property from the said Lake and those holding under him and subsequent to him; that the defendant in this suit, to wit, W. L. McConnico, is now and has been since his purchases in rightful, legal, and lawful possession of said property, as the result and accompani-ent of said sales and transfers of said property from said Lake and his vendees, and the plaintiff has no right or claim to the possession or ownership of said property.

Further answering, respondent says that plaintiff is estopped from prosecuting this suit; that as between plaintiff, who claims to be the former owner of said property, and the purchaser at said tax sale and those holding subsequent to and under him the said tax sale is absolute and cannot be set aside under the allegations of plaintiff's petition; that plaintiff, claiming to be the former owner of said property and as such being responsible for the payment of the taxes for which said property was sold, cannot prosecute this suit to set aside a tax sale which never would have occurred if he had paid the said taxes. It would be against law and good conscience to permit plaintiff to profit by his own negligence, laches, and delinquencies.

Further answering, respondent alleges that the plaintiff has no title to said property and cannot recover in this suit for the further reason that said property was duly and legally adjudicated, sold, and transferred to the State of Louisiana for the unpaid taxes thereon due to said State for the years 1880, 1881, 1882, and 1883; that the said adjudications, sales, and transfers were all made after all the formalities of law had been complied with, and divested the plaintiff of all title to and interest in said property, if any he had at that time or ever did have; that subsequent to the sale to said Lake, hereinabove referred to, the said Lake and his vendees redeemed said property from the State and acquired all the interest of the State in and to said property, all in conformity with law and in pursuance to the condition of the said sale to said Lake under the terms of act 82 of 1884, if any title to or interest in said property remained in the State after the said sale to said Lake under the provisions of said act 82 of 1884.

Further answering, respondent specially pleads the pre-
17 scription of one, two, three, and five years in bar to the action of plaintiff.

The premises considered, respondent prays that after due proceedings there be judgment in his favor dismissing the action of plaintiff, and also dismissing the call in warranty of said Fitzpatrick against respondent, and respondent further prays for all costs and for general relief.

J. ZACH. SPEARING, *Att'y.*

Answer of J. H. Lang to Call in Warranty by H. C. Reese. Filed June 13th, 1894.

R. M. DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007. Civil District Court, Div. E, Docket 5.

Now into court comes John H. Lang, called in warranty in this suit by H. C. Reese, and, reserving the benefit of the exceptions heretofore filed by him, and again pleading and urging the same as though they were herein fully and specifically set out, for answer to the petition of the plaintiff and to the answer and call in warranty of the said Reese denies all and singular the allegations thereof, except what may be hereinafter specially admitted, and calls for strict proof of the allegations of plaintiff's petition, and especially of the fact that plaintiff ever was the owner of the property described in his petition.

Further answering, respondent admits that he sold one undivided half of the property described in plaintiff's petition to said Reese by act of sale passed before Chas. B. Upton, notary public, in this parish, dated February 24th, 1892, duly registered in conveyance office, in Book 140, folio 512; but respondent avers and alleges that the title conveyed by him by said act was a good, valid, and complete title and transferred the said undivided half interest in said property to said Reese in full ownership; that said title was duly and legally declared good, full, and complete, and the said Reese
18 was ordered to take and accept the same by a judgment of this honorable court in proceedings entitled J. H. Lang *vs.* M. Kauffmann, No. 34386 of the docket of this court, which said judgment has been complied with by the said Reese, and the same is now final and binding on all parties; that said judgment and the matters and issues decided thereby cannot and should not be now disturbed.

Further answering, respondent admits, avers, and alleges that the property described in plaintiff's petition was purchased by respondent from Thomas L. Lallance by an act of sale passed before Jos. H. Spearing, late not. pub., on January 30, 1891; that said Lallance acquired said property by purchase from Orloff Lake by an act passed before said J. H. Spearing, late not. pub., on Dec. 1st, 1885, and that the said Lake acquired said property from the State

of Louisiana, through the State tax-collector, by an act passed before said J. H. Spearing, late not. pub., on November 4th, 1885.

Further answering, respondent alleges that said sale to said Lake was made by said tax-collector under the provisions of act No. 82 of the legislature of the year 1884 for the unpaid taxes due by the plaintiff (if he was the owner of said property) on said property to the State of Louisiana for the years prior to Dec. 31st, 1879; that by said sale to him said Lake acquired a good, full, valid, complete, and irredeemable title to said property, which said title was warranted and guaranteed by the State of Louisiana; that by successive regular and legal conveyances the said title so conveyed to said Lake was acquired by respondent and in turn conveyed by him to the said Reese.

Further answering, respondent alleges that said Lake also acquired the possession of said property from the said State of Louisiana; that upon his said purchase said Lake took possession of said property, and the said possession was and has been fully transferred to and acquired by and held by the respective purchasers of said property from said Lake and those holding under him and subsequent to him; that the defendant in this suit, to wit, W. L. McConnico, is now and has been since his purchases in rightful,
19 legal, and lawful possession of said property as the result and accompani-ent of said sales and transfers of said property from said Lake and his vendees, and the plaintiff has no right or claim to the possession or ownership of said property.

Further answering, respondent says that plaintiff is estopped from prosecuting this suit; that as between plaintiff, who claims to be the former owner of said property, and the purchaser at said tax sale and those holding subsequent to and under him the said tax sale is absolute and cannot be set aside under the allegations of plaintiff's petition; that plaintiff, claiming to be the former owner of said property and as such being responsible for the payment of the taxes for which said property was sold, cannot prosecute this suit to set aside a tax sale which never would have occurred if he had paid the said taxes. It would be against law and good conscience to permit plaintiff to profit by his own negligence, laches, and delinquencies.

Further answering, respondent alleges that the plaintiff has no title to said property and cannot recover in this suit for the further reason that the said property was duly and legally adjudicated, sold, and transferred to the State of Louisiana for the unpaid taxes thereon due to the said State for the years 1880, 1881, 1882, & 1883; that the said adjudications, sales, and transfers were all made after all the formalities of law had been complied with, and divested the plaintiff of all title to or interest in said property, if any he had at that time or ever did have; that subsequent to the sale to said Lake, hereinabove referred to, the said Lake and his said vendees redeemed said property from the State and acquired all the interest of the State in and to said property, all in conformity with law and in pursuance to the conditions of the said sale to said Lake under the terms of act 82 of 1884, if any title to or interest in said property

remained in the State after the said sale to said Lake under the *under the* provisions of said act 82 of 1884.

Further answering, respondent specially pleads the prescription of one, two, three, and five years in bar to the action of plaintiff.

20 The premises considered, respondent prays that after due proceedings there be judgment in his favor, dismissing the action of plaintiff, and also dismissing the call in warranty of said Reese against respondent; and respondent further prays for all costs and for general relief.

(Signed) J. ZACH. SPEARING.

Note of Evidence for Plaintiff. Filed Jan. 4, '95.

Civil District Court, Parish of Orleans, Division E.

RAFAEL MARIA DEL CASTILLO *vs.* W. L. MCCONNICO. } No. 42007.

Note of evidence for plaintiff in the above entitled and numbered cause, taken in open court this 14th day of December, A. D. 1894, before the Hon. George H. Theard, judge.

Present: W. S. Parkerson, Esq., for plaintiff; Messrs. R. H. Lea, J. Zach. Spearing, T. H. Thorpe, for defendant and warrantors.

Plaintiff's counsel offers, introduces, and asks to be filed in evidence a certified copy of an act of sale of date December 23, 1891, from James Flint, passed before Theodore Stark, notary, certified as a true copy by Henry Garland, Jr., marked A.

Also certified copy of the assessment-rolls for 1876, 1877, and 1878, together with a certified copy of an extract of the advertisement of the tax sale under which defendant claims to have purchased this property, marked "B" and "C."

To the copy of the assessment-rolls defendant and warrantors object, upon the ground that the certified copy of the assessment-roll should be from the recorded of mortgages, where the

21 official assessment-rolls are deposited, whereas the purported copy presented to the court is signed and certified to by B. T. Walshe, State tax-collector.

Defendant and warrantors further object to the offer upon the grounds that this sale for taxes, having been made under and by virtue of the provisions of act 82 of 1884, is inadmissible and irrelevant and is excluded as matter of evidence by the terms of said act.

To the second offer of the certified copy of the advertisement defendant and warrantors object under the grounds that the advertisement itself is the best evidence of what that advertisement contains, there being no evidence before the court to show that that advertisement is not in existence; that the same is irrelevant and immaterial; and upon the further ground that the copy presented is not a copy

of the full advertisement, but is merely a copy of the description of the property advertised and contains no reference of the heading and ending of the advertisement, which are material parts of the advertisement.

By the COURT: The copy of the assessment-roll offered in evidence is admitted, subject to the second ground of objection urged, upon which the court reserves its ruling.

As to the copy of advertisement offered in evidence, the court sustains the objection that the original and not a copy should be offered.

The other objections to the introduction of the assessment-roll are overruled.

To which ruling of the court counsel for defendant and warrantors except and takes this note in lieu of a bill.

It is understood between the counsel for all parties that the original advertisement shall be offered in evidence, subject to the second objection.

Counsel for plaintiff offers, introduces, and asks to be filed in evidence certified copy of delinquent-tax list for the years 1872, 1876, and 1877 from the office of the recorder of mortgages.

Same objection. Same bill and note.

It is admitted by all parties that the value of the property
22 in controversy herein is in excess of six thousand dollars.

Plaintiff rests.

Note of Evidence for Defendant and Warrantors. Filed Jan. 4, '95.

Parish of Orleans, Div. E.

RAFAEL MARIA DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 42007.

Note of evidence in the above entitled and numbered cause, taken in open court this 14th December, A. D. 1894, before the Hon. George Theard, judge.

Present: W. S. Parkerson, Esq., for plaintiff; Messrs. R. H. Lea, T. H. Thorpe, and J. Z. Spearing, for defendant and warrantors respectively.

Filed Jan. 4, '95.

Counsel for defendant offers, introduces, and asks to be filed in evidence certified copy of an act of sale from William H. Fitzpatrick to W. L. McConnico, before Omer Villere, notary public, of date March 9th, 1894, marked "1."

Also certified copy of an act of sale before J. Z. Spearing, notary public, H. C. Reese to W. L. McConnico, of date March 2, 1893, marked "2."

Counsel for both warrantors W. H. Fitzpatrick and H. C. Reese offer, introduce, and ask to be filed in evidence duly certified copy

of act of sale before Chas. B. Upton, notary public, from John H. Lang to W. H. Fitzpatrick and H. C. Reese, marked "3;" also certificates of registration of said act.

Also record of suit in civil district court entitled John H. Lang *vs.* Maurice Kauffmann *et als.*, No. 34386, and particularly the judgment therein, in which offer defendant joins, as does warrantor J. H. Lang.

Counsel for J. H. Lang offers, introduces, and asks to be filed in evidence certified copy of an act of sale from the State of
23 Louisiana to Orloff Lake, passed before J. H. Spearing, notary public, November the 4th, 1885, together with the certificate of the registration of same in the conveyance office, in Book 121, folio 899.

Also offers, introduces, and asks to be filed in evidence certified copy of an act of sale from Orloff Lake to Thomas Lallance, passed before J. H. Spearing, notary public, dated Dec. 1st, 1885, together with the certificate of the registration of sale in the conveyance office, Book 121, folio 990.

Also certified copy of an act of sale from Thomas L. Lallance to J. H. Lang, passed before J. H. Spearing, notary public, January 30th, 1891, together with certificate of registration of same in conveyance office.

Also certificate of redemption from the State of Louisiana of said sales to said State for the said years 1881, 1882, and 1883.

Warrantors H. C. Reese and W. H. Fitzpatrick join in these last offers.

J. Z. SPEARING, Esq., sworn for defendant, says:

Direct examination by Judge LEA:

Q. Mr. Spearing, do you know anything of the sale of this property in question from the State of Louisiana to Orloff Lake?

A. Yes, sir.

Q. Do you know if Mr. Orloff Lake ever took possession of that property?

A. Yes, sir.

Q. Will you please tell the court what you know about that?

A. At the time of this purchase the firm of Joseph and J. Zach. Spearing, of which I was then a member, represented Mr. Lake as attorney. Shortly after the passage of the act of sale to him——

Q. When was that?

A. The act was passed in 1885. The act shows the date itself, and I don't remember exactly how long, but shortly after that act was passed my brother and I together went up to this particular square of ground—it was then a vacant square of ground—and we took possession of it as much as it was possible to take at that time.

We went on it and identified it as the square which had been
24 purchased by Mr. Lake, and subsequently the taxes for all the years from 1880 to 1885, inclusive, were paid, and the taxes from 1885 up to the time Lake sold it was paid, and were paid

by the subsequent owners, Lallance and Lang. We attended to the payment of those taxes for them.

Q. You placed the subsequent purchasers in possession?

A. When Lake sold to Lallance he gave Lallance the possession, of course.

Q. He relinquished possession to Lallance?

A. Yes, sir; he relinquished possession to Lallance, and when Lallance sold to Lang, Lallance gave possession to Lang.

Q. He went and took physical possession of the property?

A. Yes, sir.

Q. As far as physical possession could go?

A. As far as physical possession could go—yes, sir.

Q. That was during what year?

A. I am not certain about the year, but it was within a month or two after the passage of the act of sale.

Q. To Lallance?

A. To Lallance; yes, sir; in 1885. I have forgotten the month.

Q. You are certain it was not over a month or two afterwards?

A. Oh, I am certain it was not. I may state also that, acting on that possession, he offered it for sale frequently, and, as events show, Lallance bought it from Lake, and then Lallance sold to Lang.

Q. Did you have signs placed on the property?

A. I don't know whether a sign was ever placed on the property or not. We placed it in the hands of auctioneers and real-estate agents, and whether they put signs on it or not I am not sure.

No cross-examination.

Act of Sale—Flint to Castillo. Offered by Plaintiff. Filed Dec. 14, 1894.

23RD DECEMBER, 1851.

STATE OF LOUISIANA, }
25 *City of New Orleans.* }

Sale of property by James Flint to Rafael M. Castillo.

Be it known that this day, before me, Theodore Osborn Stark, a notary public in and for the parish of Orleans, State of Louisiana, duly commissioned and qualified, and in presence of the witnesses hereinafter named and undersigned, personally came and appeared Mr. James Flint, of this city, unmarried, who declared that, for the consideration and on the terms and conditions hereinafter expressed & in confirmation of the adjudication made on the 4th December inst. by Mes-rs. Beard and May, auctioneers of this parish, he does by these presents grant, bargain, sell, convey, transfer, assign, and set over with all legal warranties unto Mr. Rafael Maria Del Castillo, of this city, here present, accepting and purchasing for himself, his heirs and assigns, and acknowledging delivery and due possession thereof—

That square of ground, together with all the rights, privileges, customs, ways, servitudes, and whatsoever else may be thereunto

belonging or in anywise appertaining, situate in Hurstville, parish of Jefferson, in this State, bounded by Eleanor, Prytania, Pitt, & Nashville streets and designated by the number forty-eight on a certain plan drawn by Benj. Buisson, surveyor, dated the 17th day of March, 1837, and deposited for reference in the office of W. M. Boswell, late a notary of this city. Said square measures according to said plan three hundred feet on Eleanor street and the same on Nashville street and two hundred and forty feet on Prytania street and the same on Pitt street.

The aforesaid property herein conveyed was acquired by the said vendor, James Flint, (*sic*) 4, 5, retrocession from Herman Wiehe, by an act, (*sic*) 6, 7, passed on the nineteenth of October, 1846, before Helary Cenas, not. pub., and by reference to the certificate of the recorder of mortgages in and for the said parish of Jefferson, hereto annexed, it will appear that there is no mortgage standing in the name of the said vendor and recorded against the property
26 herein conveyed other than, 1st, one in favor of Ed. Gottschalk, to secure the payment of a note of $1,000; second, one in favor of the same, resulting from the inscription of a judgment rendered by 2nd district court of New Orleans, 7th *pene*, 1850, to sum $1,150, interest and costs; both of which mortgages have been cancelled, so far as they bear on said square, by act in my office; to have and to hold the said described property herein conveyed to the said purchaser, his heirs and assigns forever, and the said vendor, for himself and his heirs, the said described property to the said purchaser, his heirs and assigns, shall and will warrant and forever defend against all legal claims and demands whatsoever, and the said vendor do- hereby (moreover) transfer unto the said purchaser the rights and actions of warranty to which he is or may be entitled against any and all of the former owners of the property herein conveyed, hereby subrogating the said purchaser in and to the said rights and actions to be by him enjoined and exercised in the same manner as they might have been by the said vendor himself.

This sale is made and accepted for and in consideration of the price and sum of four hundred and twenty dollars ($420), in part payment whereof the said purchaser has, in accordance with the terms of sale, paid the sum of one hundred and five dollars in ready current money, and for the remainder of said price has furnished his three several promissory notes, dated the 4th day of December inst., the day of said adjudication, and payable to his own order (and by him endorsed) respectively in one, two, and three years after date, for the sum of one hundred and five dollars each and bearing interest at the rate of six per cent. per annum from date to maturity, & thereafter, if not then paid, at the rate of eight per cent. per annum till final payment; which notes, after being paraphed by me, notary, in order to identify them with this act, *was* delivered to the said Flint, who hereby acknowledges the receipt thereof, as well as of the said ready money, and, in order to secure the full and punctual payment of said notes in principal and interest, the said purchaser hereby specially mortgages in favor of his said
27 vendor and of whosoever may become the holder of said

notes the hereby-conveyed square of ground, promissing and binding himself not to alienate nor encumber the same to the prejudice of this mortgage.

Thus done and passed in my office, at the said city of New Orleans, in the presence of George W. Christy and Edward Allen, witnesses of lawful age and domiciliated in this city, who hereunto sign their names, together with the said parties and me, the said notary, on this twenty-third day of December, in the year of our Lord one thousand eight hundred and fifty-one, seven words erased.

(Signed) GEO. W. CHRISTY.
JAMES FLINT.
E. ALLEN.
R. M. CASTILLO.
THEODORE STARK, *Not. Pub.*

I, Henry L. Garland, Jr., custodian of notarial records, do hereby certify the above and foregoing to be a true and correct copy of the original.

(Signed) HENRY L. GARLAND, JR.,
Custodian of Notarial Records.

Extract from Advertisement—Flint to Castillo. Offered by Plaintiff. Filed Dec. 14, 1884.

NEW ORLEANS, *Feb.* 18*th*, 1884.

Extract from advertisement of tax sales dated June 30th, '85, sale commencing on 30th of July, '85, & made by J. D. Houston, late tax-collector under act 82, 1894.

340. A certain square of ground in the Sixth district of the city of New Orleans bounded by Prytania, Pitt, Eleanor streets, and Nashville avenue, designated as square No. 48, said square No. 48 measuring 240 feet front on each Pitt and Prytania St. by 300 feet front on each Eleanor street — Nashville Ave.; which property was assessed for the year- 1876, 1877, and 1878 in the name of Rafael Maria Del Castillo, of which property R. M. Del Castillo or
28 her estate and heirs are the present owners, and on which property the State taxes for the following years, viz., 1876, 1877, 1878, amounting to $38.50, are now due and unpaid, and also on which property the city tax for the years 1877, 1878, 1879, amounting to $45.00, are now due and unpaid. The above is a true copy of the advertisement of square No. 48, Hurstville, as per record of this office.

——— ———,
State Tax-collector.

Act of Sale—W. H. Fitzpatrick to W. L. McConnico. Offered by Defendant. Filed Dec. 14, 1894.

Sale of real estate by W. H. Fitzpatrick to W. L. McConnico.

UNITED STATES OF AMERICA,
State of Louisiana, Parish of Orleans, City of New Orleans.

Be it known that on this ninth day of the month of March, the year of our Lord one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and eighteenth, before me, Omer Villere, a notary public, duly commissioned and qualified in and for the parish of Orleans, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Mr. William H. Fitzpatrick, a resident of this parish and city, who declared that for the consideration hereinafter expressed he does by these present- sell, convey, & set over, with full warranty and with subrogation and substitution to all the rights of preceeding owners, unto Mr. Walter L. McConnico, also a resident of this parish and city, the said party being here present, accepting and purchasing for himself, his heirs and assigns, the following-described property:

One undivided half of square of ground in the Sixth district of this city, bounded by Prytania, Eleanor, Pitt, and Nashville Ave., measuring two hindred and forty feet on each Pitt and
29 Prytania streets, and three hundred feet on each Eleanor and Nashville avenue, being the same property acquired by the present vendor by purchase from J. H. Lang, per act passed before Chas. B. Upton, a notary public in this city, on the 24 day of February, 1892, C. O. Book 140, fo. 512.

And the said Lang had acquired the whole of said square by purchase from Thomas L[illegible], per an act before Joseph H. Spearing, a notary, in this city, on the 30th January, 1891, C. O. Book 136, fo. 364.

And the said Lallance had acquired same by purchase from Orloff Lake, per act passed before Joseph H. Spearing, notary, in this city, on 1st December, 1885, C. O. Book 121, fo. 990.

And the said Lake had acquired the same from R. M. Del Castillo at a tax sale thereof, per act before said Spearing, notary, on the 4th November, 1885, C. O. Book 121, fo. 899.

The said Del Castillo had acquired said property on 23 December, 1851.

By reference to the certificate of taxes hereto annexed it appears that all the taxes due on said property have been paid up to and including those of 1894.

By reference to the certificate of the register of conveyance, which is hereto annexed, it appears that the said property has not been alienated by the present vendor.

This sale is made and accepted for and in consideration of the

price and sum of three thousand five hundred dollars, $3,500, of which amount the aforesaid purchaser has paid cash, in current money of the United States, to the vendor, who by these presents acknowledges the receipt thereof and grants full discharge thereof the sum of —, and for the remaining part of said purchase price the said purchaser has furnished a certain promissory note for the sum of three thousand five hundred dollars, $3,500, drawn by him to his own order and by him endorsed, dated this day, and payable one year after date, and bearing interest at the rate of eight per cent. per annum from date till paid, which note, being first countersigned and paraphed *ne varietur* by me, the undersigned notary, in order to identify it herewith, was delivered to the said vendor, who acknowledges the delivery thereof.

And in order to secure the payment of said note and the interests thereon and all the costs, if any there be, and also the fees of the lawyer who may be employed in case of suit to recover the payment of said note (which fees are hereby fixed at five per cent. on the amount sued for), the property above sold and the other undivided square is and remains mortgaged and hypothecated, with vendor's privilege, in favor of any holder or holders of said note, hereby binding himself, the said purchaser, not to sell, alienate, or encumber said property to the prejudice of this mortgage.

It is furthermore agreed that should the said note be not punctually paid at maturity, then the holder or holders thereof shall have the right to cause the aforedescribed property to be seized and sold under executory process to the last and highest bidder and without appraisement. The purchaser hereby binds himself to cause the buildings erected on said property to be insured against the risks of fire and to transfer the policy of insurance to the vendor or to any holder or holders of said note, and in default whereof any holders of said note are authorized to insure said buildings at the proper costs and expenses of said purchaser. From the certificate of the recorder of mortgages in and for this parish, bearing date this day and hereto annexed, it appears that there is no other mortgage recorded against the above-described property than the one in favor of John H. Lang to secure the sum of $1,666.67, suit & costs, as per act before C. B. Upton, notary, dated the 24 February, 1892, now reduced to $833.33⅓.

And the said Fitzpatrick having produced the note of $33.33⅓ secured by the above-mentioned act, I, notary, cancelled the signature thereon and annexed it to this act. The recorder of mortgages is therefore requested and authorized to cancel from his records in Book 443, fo. 596, the inscription resulting from the act securing said note.

It is well understood and agreed, as above stated, that the whole of the aforesaid square, which now belongs to the present purchaser, is mortgaged to secure the payment of the herein-furnished note.

Thus done and passed at the city of New Orleans, in the presence of Messieurs W. N. Grunewald and Michael McQuade, competent

witnesses, who hereunto sign their names with said parties and me, notary, on the date first above written, after due reading.

(Signed) W. H. FITZPATRICK.
W. L. McCONNICO.
W. N. GRUNEWALD.
M. McQUADE.
OMER VILLERE, *Not. Pub.*

Registered in conveyance office, Book 151, fo. 244; recorded in mortgage office, Book 513, fo. 551.

A true copy.

OMER VILLERE, *Not. Pub.*

Act of Sale—H. C. Reese to W. L. McConnico. Offered by Defendant. Filed Dec. 14, 1894.

March 2nd, 1893—Sale—H. C. Reese to W. L. McConnico.

UNITED STATES OF AMERICA,
State of Louisiana, Parish of Orleans, City of New Orleans.

Be it known that on this second day of March, in the year of our Lord one thousand eight hundred and ninety-three and of the Independence of the United States the one hundred and seventeenth, before me, James Zacharie Spearing, notary public in and for the parish of Orleans, State of Louisiana, aforesaid, duly com-
32 missioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Mr. John J. Gidierre, a resident of this city, herein acting as the agent and attorney-in-fact of Horace C. Reese, late a resident of this city, but now residing in the city of St. Louis, State of Missouri—said Gidierre being duly authorized, as per power of attorney made and signed by said Reese, dated at St. Louis, Missouri, on the 25 day of February, 1893, and signed and acknowledged before C. D. Greene, Jr., a commissioner for Louisiana at St. Louis, in the presence of two competent witnesses, which said power of attorney is hereto annexed as part hereof—and said Gidierre, in his said capacity, declared that for the price and on the terms hereinafter stipulated — does by these present sell, transfer, convey, assign, and deliver, with full warranty and guarantee against all claims whatsoever and with full substitution and subrogation in and to all the rights and actions in warranty of said Reese against all preceding vendors, unto Walter L. McConnico, a resident of this city, here present, accepting these presents, and purchasing for himself, his heirs and assigns forever, the following-described property, to wit:

The one undivided half interest and ownership of said Reese in and to the following-described real estate, to wit:

A certain square of ground in the Sixth district of this city, in square bounded by Prytania, Pitt, Eleanor streets and Nashville

avenue; said square measures two hundred and forty (240) feet front on each Pitt and Prytania streets by three hundred (300) feet front on each Eleanor street and Nashville avenue—

Being the same interest in the property which was acquired by said Reese and W. H. Fitzpatrick, in the proportion of one undivided half of each, from John H. Lang, as per act before Charles B. Upton, notary public, dated February 24, 1892, registered in con. office, B'k 140, fo. 512;

To have and hold said property unto said purchaser, his heirs and assigns forever. These presents are made and accepted
33 for and in consideration of the price and sum of eighteen hundred and fifty dollars, whereof said purchaser has paid the said Gidierre, in his said capacity, the sum of fourteen hundred dollars ($1,400) in cash, current money, which the said appearer hereby acknowledges to have received, for which he hereby grants full acquittance and discharge, and for the balance of said purchase price, to wit, the sum of four hundred and fifty dollars, said purchaser hereby assumes and promises to pay to the acquittance and discharge of said Reese one-half of a certain promissory note made and signed by said Reese and said W. H. Fitzpatrick to their own order and by them endorsed, dated February 24th, 1892, for the sum of eight hundred and thirty-three dollars & $\frac{33}{100}$, payable two years after its date, with eight per cent. interest per annum from its date till paid, the payment of which said note is secured by vendor's lien and privilege in favor of said J. H. Lang, as per act passed before said Upton, not. pub., dated Feb. 24th, 1892, recorded in mortgage office, B'k 443, fo. 596.

By reference to the annexed certificate of the register of conveyances for this parish it does not appear that said vendor has heretofore alienated said property.

By reference to the annexed certificate of the mortgages for this parish it will be seen that said property is free of all encumbrances in the name of said Reese & Fitzpatrick except 443–396, the mortgage they granted in favor, Feb. 29, '92, of their vendor, J. H. Lang, to secure the sum of $1,666.67, interest, etc., as per act before Chas. B. Upton, not. pub., dated Feb. 24, 1892, one-half of which said mortgage is hereinabove assumed; and here the said McConnico presented to me, notary, a certain promissory note, made and signed by said Reese & Fitzpatrick to their own order and by them endorsed, dated Feb. 24, 1892, for the sum of eight hundred and fifty-three & 33⅓–100 dollars, payable one year after its date, with eight per cent. interest per annum from its date till paid, the payment whereof is secured by vendor's lien in favor of John H. Lang, as per act before C. B. Upton, not. pub., dated Feb. 24, 1892, recorded in mortgage office, Book 443, fo. 596, which note said Mc-
34 Connico declared had been paid by him and said Fitzpatrick in equal proportions, the signatures on which said note I, notary, cancelled and erased.

The said McConnico, *is* the last holder and owner of said note hereby authorized, instructs the recorder of mortgages to cancel and erase said mortgage above referred to, to the extent of eight hun-

dred and thirty-three 33⅓–100 dollars and no further. Thus done and passed in my office, in the city of New Orleans aforesaid, on the day, month, and year first above written, in the presence of Messrs. Jno. C. Ricks and E. S. Reach, competent witnesses, residing in this parish, who hereunto sign their names with the said parties and me, notary, after due reading of the whole.

(Original signed) HORACE C. REESE,
Per pro. JOHN J. GIDIERE.
JOHN C. RICKS.
J. ZACH. SPEARING, *Not. Pub.*

EDW. S. REACH.
W. L. McCONNICO.

Registered in conveyance office, Book 147, folio 141.
New Orleans, March 3rd, 1893.
(Signed) H. CAIN, *Reg.*

Recorded in mortgage office, Book 466, fo. 616.
New Orleans, March 4th, 1893.
(Signed) J. P. RONDEAU, *Cl'k.*
(Signed) JOS. BATT, *R. M.*

A true copy.
New Orleans, March 9, '93.
J. ZACH. SPEARING, *Not. Pub.*

35 *Act of Sale.*

Lang to Fitzpatrick and Reese. Offered by warrantors, Fitzpatrick and Reese. Filed Dec. 14, 1894.

UNITED STATES OF AMERICA,
State of Louisiana, Parish of Orleans, City of New Orleans.

Be it known that on this twenty-fourth day of February, in the year of our Lord one thousand eight hundred and ninety-two, and of the Independence of the United States the one hundred and sixteenth, before me, Charles Bringay Upton, a notary public in and for the parish of Orleans, State of Louisiana, aforesaid, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared James Z. Spearing, a resident of this city, herein appeared as the agent and attorney-in-fact of J. H. Lang, a resident of Harrison county, State of Mississippi, as per power of attorney passed before Jos. H. Spearing, not. pub., in this city, on July 29, 1892, who declared that for the price and on the terms hereinafter stipulated he, in his said capacity, does by these presents sell, transfer, convey, assign, and deliver, with full warranty and guarantee against all claims whatsoever, and with full substitution and subrogation in and to all said Lang's rights and actions in warranty against all preceeding vendors, unto William H. Fitzpatrick and Horace C. Reese, both of age and of this city, in the proportion of one undi-

vided half to each, here present, accepting these presents, and purchasing for themselves, their heirs and assigns forever—

A certain square of ground in the 6th dist. of the city of New Orleans, bounded by Prytania, Pitt, and Eleanor streets and Nash-
ville avenue, designated as square No. 48. Said square
36 measures 240 feet front on each Pitt and Prytania Sts. by
300 feet front on each Eleanor street and Nashville Ave., being part of the same property acquired by said J. H. Lang from Thomas L. Lallance, as per act of sale passed before Jos. H. Spearing, not. pub., on July 30, 1891. Reg. Con. Of., B'k 136, fo. 364.

And the said purchasers declared that they accepted said property and the title thereof in obedience to a judgment of the civil district court for the parish of Orleans rendered on Feb. 4th, 1892, and signed Feb. 10th, 1892, in suit of said John H. Lang *vs.* M. Kauffmann *et al.* (W. H. Fitzpatrick), No. 34386 of the docket of said court, a copy of which said judgment is hereto annexed and made part hereof.

By reference to the annexed certificate of the recorder of mortgages it appears that said property is free of all encumbrances in the name of said vendor except—

(419-564) The assumption he took up to the sum of $9,500.00, int., &c., Feb. 4, '91, as per act before Jos. H. Spearing, not. pub., dated January 30, '91, against said above-described square and others of—

326 (180) The one Thomas L. Lallance granted in favor of his vendors, Jan. 15, '86, Orloff Lake, to secure the sum of $9,500.00, int., &c., as per act before Jos. H. Spearing, N. P., dated Dec. 1st., 1885, against said above-described square and others.

And herein intervened Mr. Maurice Kauffmann, one of the defendants in said suit, who declared that for a valuable consideration he hereby consents to this sale and transfer being made to said Reese, to whom he hereby transfers his rights; to have and to hold said property unto said purchaser, *their* heirs and assigns forever. These presents are made and accepted for and in consideration of the price and sum of ($2,500.00) twenty-five hundred & $\frac{00}{100}$ dollars, which the said Spearing, agent, *and* etc., hereby acknowledges to have received in the manner and form following, to wit: The sum of (833.33) eight hundred & thirty-three & $\frac{33}{100}$ dollars in cash, current money, for which he, in said capacity, hereby grants full
acquittance and discharge, and for the balance of said pur-
37 chase price, to wit, the sum of ($1,666.67) sixteen hundred
and sixty-six & $\frac{67}{100}$ dollars, said purchasers have furnished their two promissory notes, made and signed by themselves to their own order and by them endorsed, dated the 24 day of February, 1892, and payable as follows, to wit, each of said notes for the sum of eight hundred and thirty-three & 33½–100 dollars, payable respectively at one and two *tears* after date.

Which said note stipulate- to bear — at the rate of eight per cent. per annum from the date of said notes until paid, and which said promissory note, after having been paraphed *ne varietur* by me, undersigned notary, for identification with this act, has been de-

livered to said vendor, who acknowledges the receipt thereof, as well as of the cash portion of this sale.

And in order to secure the full and punctual payment of said promissory note in capital and all interest thereon as aforesaid vendor's lien and privileges and special mortgage on the herein described and conveyed property in favor of said vendor and any future holder or holders of said promissory note are hereby expressly retained by said vendor and granted by the said purchaser-, who hereby binds themselves and their heirs and assigns not to sell, alienate, or encumber the said property to the prejudice of this act.

Said purchaser- furthermore bind themselves and their heirs or assigns to insure within twenty-four hours from this date and to keep insured the buildings and improvements on said property against loss by fire, until the full and final payment of said promissory note, in one or more good and solvent insurance company or companies doing business in this city, to the amount of said promissory note or any balance which may be due thereon, and to transfer such policy or policies of insurance to said vendor or any holder or holders of said promissory note, and in default of said purchaser causing such insurance to be effected and transferred, said vendor or any holder or holders of said promissory note is and hereby — authorized to cause such insurance to be made and effected at the cost, charge, and expense of said purchaser; but this clause
38 shall not be construed as obligatory on such holder or holders or as making them liable for any loss, damage, or injury which may result from the non-insurance of the said buildings and improvements. The reimbursement of all sums paid by the holder or holders of said promissory note for that purpose, as well as all attorneys' fees and costs as *is* hereinafter provided for, shall also be secured in their payment by the special mortgage and privilege herein retained and granted, and in the event of suit being instituted for the recovery of all or any portion of said promissory note such attorneys' — and costs shall be collectible in the same manner, under the same process, and at the same time as the principal claim.

Said purchaser further declared that in case of the non-payment of all or any portion of said promissory note at maturity and as stipulated it shall be lawful for and they hereby authorize any holder or holders thereof to cause all and singular the herein described and conveyed property to be seized and sold under executory or other legal process, said purchaser hereby confessing judgment in favor of any and all holder or holders of said promissory note, together with all interest therein, costs, and attorneys' fees, which attorneys' fees, however, are hereby fixed at five (5%) per cent. on the amount for which the seizure of judgment may be obtained or proceedings taken;

The aforesaid property to remain so mortgaged until the full and final payment of said note, together with all costs, charges, and expenses herein stipulated.

By reference to the annexed certificate of register of conveyances

it does not appear that said vendor has heretofore alienated said property.

And herein intervened John F. Spearing, who, as the last holder and owner of nineteen promissory notes made and signed by Thomas L. Lallance, dated Dec. 1st, 1885, to the order of and endorsed by said Lallance, each for the sum of five hundred dollars, payable on the first day of Jan., 1886, & on the first of
39 each and every succeeding month up to the first day of July, 1887, inclusive, aggregating nine thousand five hundred & $\frac{00}{100}$ ($9,500.00) dollars, secured by special mortgage & vendors' lien & privilege in favor of Orloff Lake on the property herein described and other property, as per act before Jos. H. Spearing, not. pub., dated Dec. 1st, 1885, recorded in mortgage office, Book 326, fo. 180; which said notes and mortgage were assumed by said Lang, vendor herein, as per his said act of purchase before Jos. H. Spearing, not. pub., Jan. 30, 1891, recorded in mortgage office, B'k 419, fo. 564; and said J. F. Spearing, as the last holder and owner of said notes, declared that for a valuable consideration he does hereby release the above-described and herein-conveyed property from the effects of said mortgage, and he does hereby authorize and instruct the recorder of mortgages for this parish to cancel and erase the above-described mortgage in favor of Orloff Lake for ($9,500.00) nine thousand five hundred & $\frac{00}{100}$ dollars, granted by said T. L. Lallance, as per act before J. H. Spearing, not. pub., Dec. 1st, '85, recorded in B'k 326, fo. 180, and the assumption of said mortgage by said Lang, as per act before J. H. Spearing, not. pub., Jan. 30, '91, recorded in B'k 419, fo. 564, only so far as the above-described and herein-conveyed property is concerned & no further, and I, said notary, have marked this partial release on each of said notes.

By reference to the annexed city and State tax certificates it will be seen that the property herein conveyed is free of all taxes up to and including those for the year 1891, and the purchaser assumes the taxes for the year 1892 and subsequent years.

Said Spearing, attorney, &c., declared that this said principal, Lang, was married when he purchased said property, and that his wife is still living.

Thus done and passed in my office, in the city of New Orleans aforesaid, on the day, month, and year first above written, in the presence of Mes-rs. Jno. C. Ricks and Felix J. Chastant, competent witnesses, residing in this parish, who hereunto sign their names with the said parties and me, notary, after due reading of the whole.

40 (Original signed) J. ZACH. SPEARING.
W. H. FITZPATRICK.
H. C. REESE.
MAURICE KAUFFMANN.
JOHN F. SPEARING.
CHAS. B. UPTON.

JNO. C. RICKS.
FELIX J. CHASTANT.

Registered in conveyance office, in Book 140, folio 512.
New Orleans, 25 February, 1892.
(Signed) A. J. VILLERE, *Register.*

Recorded in the mortgage office, in B. 443, fo. 596. —— ——, not. pub.
New Orleans, February the twenty-fifth, 1892.
(Signed) A. M. HAYDEL.
(Signed) GEO. GUINAULT, *R. M.*

A true copy.
(Signed) CHAS. B. UPTON, *Not. Pub.*

Act of sale from the State of Louisiana to Orloff Lake, of date Nov. 4, 1885, together with certificate of registration of same in the conveyance office, in Book 121, fo. 899. Offered in evidence by J. H. Lang, defendant, and W. H. Fitzpatrick & H. C. Reese, warrantors.

No. 676. November 4, 1885. Sale—State of Louisiana, R. Maria Del Castillo to O. Lake.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans.

Be it known that on this fourth day of November, in the year of our Lord the one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and tenth, before me, Joseph Hall Spearing, a notary public in and for the parish of Orleans, State of Louisiana, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Joseph Deposito, the duly appointed and authorized deputy of James D. Houston, State tax-collector of the First or Upper district of the city of New Orleans aforesaid, duly commissioned and qualified, who declared that in pursuance of and by virtue of the power in him vested by the act of the legislature of this State at the session of 1884, being act No. 82, approved July 10th, 1884, and the laws in such cases provided, he proceeds at the earliest date to advertise for sale at public auction all property situated in the upper districts of this city, together with all the improvements thereon, on which there remained unpaid taxes due to the State prior to December 31st, 1879; that all such property, with the improvements, &c., was advertised three times in thirty days in English, in a daily paper published in the city of New Orleans, to wit, The Daily States, the last advertisement occurring on the day such property was advertised to be sold, said property being advertised for sale at the St. Charles auction exchange in this city; that such properties were always advertised in the name of the party in whose name the same was assessed, and, when it was known, in the name of the present owner of the same; that said advertisements described or identified said property and designated the time and place of offer-

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ing; that after having complied with all the requisites of law the following-described property, with all the improvements thereon, to wit:

A certain square of ground in the 6th district of the city of New Orleans, bounded by Prytania, Pitt, & Eleanor streets & Nashville avenue, designated as square No. 48; said square No. 48 measures 240 feet front on each Pitt & Prytania streets by 300 feet front on each Eleanor street & Nashville avenue, being the same property acquired by Rafael Del Castillo from Jos. Flint, as per act before T. O. Stark, N. P., Dec. 23, 1851, registered in C. O. Jefferson Transcripts, Book 3, folio 331, for sale at public auction on the 30th day of July, 1885, at the hour of three o'clock p. m., at the
42 St. Charles auction exchange, in this city, on St. Charles St. between Common and Gravier streets.

And said tax-collector further declared that under the terms and provisions of said act No. 82 of 1884 the aforesaid-described property and improvements were advertised and offered for sale, as herein stated and according to law, to enforce the payment of the unpaid State taxes due on and by said property for the years 1876, 1877, 1878, which amounted to the sum of thirty-eight & $\frac{50}{100}$ dollars ($38.50), and which State taxes were due and unpaid at the date of the sale of said property to the purchaser herein named; that said property and improvements were advertised as being duly and legally assessed in the name of Rafael Maria Del Castillo for the years 1876, 1877, 1878, and as the property of R. M. Del Castillo or his or her estate and heirs, the present owner; that after having complied with all other legal requisites he did expose and offer the said hereinbefore-described property and improvements for sale at public auction, at the said St. Charles auction exchange, on St. Charles street between Common & Gravier streets, in this city (being the place designated in said advertisement), on the 30th day of July, 1885, to enforce the payment of the aforesaid unpaid State taxes; that at said place and last date mentioned he did announce in a loud and audible voice the conditions and terms of said sale, when John F. Spearing, as the attorney-in-fact of Orloff Lake, as per power of attorney before J. Z. Spearing, N. P., on the 15th day of August, 1885, being the last and highest bidder for said property in the sum of thirty-five dollars ($35), the said property and improvements were adjudicated according to law to the said Spearing, agent, &c., for account of said Lake for said price and sum of thirty-five dollars ($35), the said price bid for said property being in full and final payment and satisfaction of all the State, city, parish, and municipal taxes due on or by said property prior to Dec. 31, 1879, together with all interests, costs, and charges on the same, and for all other taxes, tax liens, and tax privileges which fell
43 due prior to Dec. 31st, 1879, according to the provisions of said act No. 82 of 1884; that on said property there was due and unpaid at the time of said adjudication and sale the taxes due to the city of New Orleans for the years 1877, 1878, 1879, amounting to the total sum of forty-five dollars ($45.00), and now, in pursuance of said adjudication and by virtue of said act No. 82 of 1884 and of

the provisions of the laws in such cases provided, and for said consideration of thirty-five dollars ($35) paid by said Spearing, agent, &c., for account said Lake, the receipt whereof is hereby acknowledged, the said tax-collector, for and in the name and on behalf of the State of Louisiana, does by these presents sell, assign, transfer, and deliver unto the said Lake, through said Spearing, agent, &c., here present, accepting these presents and purchasing for said Lake, his heirs and assigns, the property hereinbefore described, together with all the improvements and rights thereon belonging, giving and granting to said purchaser an absolute and irredeemable title to said property, with the rights to immediate possession thereof and free of all mortgages, liens, and privileges except for the State & city taxes for the year 1880 and subsequent years, the State of Louisiana hereby agreeing to warrant and defend the title of said purchaser, and in case of eviction or failure on the part of the State to give an absolute and perfect title to said property to refund to said purchaser the said amount paid by him to the State for said property. The said purchaser hereby assumes and promises to pay all the State, city, and municipal taxes on said property for the year 1880 and subsequent years, together with all interest, costs, charges, fees, and commissions which may be due and not paid.

By reference to annexed certificate of the register of conveyances, dated October 27, 1885, it does not appear that said Rafael Del Castillo has alienated the aforesaid described property acquired by her aforesaid on Dec. 25, 1851, & registered in C. O. Jeff. Trans., Book 3, folio 331, except sale to State tax-collector, sale tax 1880, Dec. 22, 1883, B'k 122, fo. 288; sale to State tax-collector,
44 sale tax 1881, June 25, 1884, Book 122, fo. 315; sale to State tax-collector, tax 1882, Dec. 13, 1884, Book 122, fo. 331; sale to State tax-collector, tax 1883, Dec. 13, 1884, Book 122, fo. 359.

In witness whereof the said James D. Houston, tax-collector aforesaid, through said Joseph Deposito, his duly appointed and authorized deputy, executes this act of sale in the name and on the behalf of the State of Louisiana in favor of the said O. Lake, at my office, in the city of New Orleans, on the date first above written, in the presence of James D. Spearing and R. Saunders Scott, competent witnesses, who also sign hereunto with said purchaser and me, notary, after reading the whole.

(Original signed) J. D. HOUSTON,
State Tax-collector, Upper District of City of New Orleans.

Registered in conveyance office, Book 121, fo. 899.
New Orleans, Nov. 5, 1885.
(Signed) C. H. BREEN, *D'y R. C.*,
Per J. D. HOUSTON, *D'y.*
ORLOFF LAKE,
Per JOHN F. SPEARING.
J. Z. SPEARING.
R. SAUNDERS SCOTT.
JOS. H. SPEARING, *Not. Pub.*

A true copy.
(Signed) JOS. H. SPEARING, *Not. Pub.*

Recorded in the mortgage office, in Book 445, folio 390.
New Orleans, August nineteenth, 1891.
(Signed) AM. M. HAYDEL.
V. J. JOUBERT, *D. R. M.*

45 Act of sale from Orloff Lake to Thomas L. Lallance, dated Dec. 1st, 1895, together with the certificate of registration of the sale in the conveyance office, Book 121, folio 990. Offered in evidence by defendant and warrantors.

No. 703. December 1st, 1885. Sale and mortgage—Orloff Lake to Thomas L. Lallance.

UNITED STATES OF AMERICA,
State of Louisiana, City of New Orleans.

Be it known that on this first day of the month of December, in the year of our Lord one thousand eight hundred and eighty-five (1885) and of the Independence of the United States of America the one hundred and tenth, before me, Joseph Hall Spearing, a notary public duly commissioned and qualified — and for the parish of Orleans, State of Louisiana aforesaid, and in the presence of witnesses hereinafter named and undersigned, personally came and appeared Orloff Lake, of this city, who declared that for the price and on the terms hereinafter set forth he does by these presents grant, bargain, sell, transfer, assign, and deliver without any warranty or guarantee whatsoever, but with full substitution and subrogation in and to all his rights and actions in warranty against all preceding vendors and parties whatsoever, unto Thomas L. Lallance, also of this city, here present, accepting their presents and purchasing for himself, his heirs and assigns, the following-described properties, together with all the buildings and improvements thereon and rights, privileges, and appurtenances thereunto belonging or in anywise appertaining, to wit:

First. Two (2) certain lots of ground in the 1st district of the city of New Orleans, in square bounded by Magazine, Constance, Calliope, and Poeyfare streets, designated as lots No. 18 & 19, also known as lots No. 6 & 7, which adjoin each other and meas-
46 ure 60 feet front on Poeyfare street by a depth of 97 feet 2 inches and five lines; acquired from John O. McCall July 25, 1885; registered in conveyance office, B'k 121, folio 673, July 27, 1885.

Second. Two certain lots of ground adjoining each other in the 4th district of the city of New Orleans, in square bounded by White or Basin, Laurent or Jackson streets, designated as lots Nos. 7 & 8, in square No. 295. Said lots Nos. 7 & 8 together measure 60 feet and nine inches front on Philip street by a depth of 122 to 124 feet 6 inches; acquired from Mrs. Margaret Kavanagh, widow of Owen Kavanagh, Oct. 16th, 1885; registered in con. office, B'k 123, fo. 594.

Third. Four (4) certain lots of ground in the 6th district of the

city of New Orleans, in square bounded by Tchoupitoulas, Front, Joseph, & Octavia streets, designated as lots Nos. 7, 8, 9, & 10, in square 69. Said lots Nos. 7, 8, & 9 adjoin each other and measure 93 feet front on Front street by a depth of 110 feet. Lot No. 10 is in the rear of above lots and measures 30 feet front on Octavia street by a depth of 139 feet and six inches. Acquired Oct., '85, from Mrs. Adelaide Gordy, wife of Jno. B. Robertson; registered in con. office, B'k 121, folio 850, Oct. 17, 1885.

Fourth. A certain lot of ground in the 6th district of the city of New Orleans, in square bounded by Tchoupitoulas, Jersey, Soniat, & Robert streets, designated as lot No. 19, in square No. 123, measuring 30 feet & 2 inches front on Soniat street by a depth of 120 feet; acquired from H. R. Arbo, Edw'd B. & John L. Lacoste Nov. 4th, 1885; registered in con. office, B'k 121, folio 900, Nov. 5th, 1885.

Fifth. A certain square of ground in the 6th district of the city of New Orleans, bounded by Pitt, Prytania, Webster, and Henry Clay streets, designated as square No. 50, measuring 254 feet by 257 feet and 290 feet by 300 feet; acquired from H'y Chiapella Nov. 4, '85; registered in con. office, B'k 121, folio 900, Nov. 5, 1885.

Sixth. One-half of a certain square of ground in the 6th district of the city of New Orleans (Greenville), bounded by Oliver, Wall, Lowerline, & Pine streets, designated as ½ of square 35 of said district. Said ½ of square 35 contains 10 lots numbered from 11 to 20, inclusive. Lots Nos. 11, 12, 13, & 14 measure each 30 feet front on Wall street by 120 feet in depth. Lots Nos. 15 & 16 measure each 30 feet front on Pine street by 120 feet in depth. Lots Nos. 17, 18, 19, & 20 measure each 30 feet front on Oliver street by 120 feet in depth. Acquired from J. F. Bradford or his heirs & J. R. Russell Nov. 4, 1885; registered in conveyance office, Book 121, folio 900, Nov. 5, 1885.

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Seventh. A certain square of ground in the 6th district of the city of New Orleans (in Burhteville), bounded by Plaquemine, Perrier, & Webster streets & Henry Clay avenue, designated as square No. 42, in said district. Said square measures 279 feet by 289 feet, more or less, and contains 22 lots, numbered from 1 to 22, inclusive; acquired Nov. 4, '85, from Edmund Burhte; registered in conveyance office, Book 121, folio 899, Nov. 5, 1885.

Eight-. A certain square of ground in the 6th district of the city of New Orleans, bounded by Prytania, Pitt, & Elinor streets and Nashville avenue, designated as square No. 48. Said square measures 240 feet front on each Pitt & Prytania streets by 300 feet front on each Elinor street and Nashville avenue; acquired Nov. 4, 1885, from R. Maria Del Castillo; registered in con. office, B'k 121, folio 899, Nov. 5, 1885.

Ninth. A certain square of ground (comprising 20 lots) in the 6th district of the city of New Orleans, bounded by Esther, Ann Pine, and Lowerline streets, designated as square No. 45 of said district. Said square measures 300 feet on each Pine and Lowerline streets and 250 feet on each Esther and Ann streets and contains 20 lots, numbered from 1 to 20, inclusive; acquired Nov. 4, '85,

from Maria J. Billaud; registered in con. office, Book 121, folio 899, Nov. 5th, 1885.

Tenth. A certain square of ground in the 6th district of the city of New Orleans, designated as square No. 79 of said 6th district, bounded by Burthe, Second, Pine, & Broadway streets, and measures 240 feet on each Second and Burthe streets by 300 feet on each Pine and Broadway streets; acquired Nov. 4, 1885, from Henry
48 Blood; registered in conveyance office, Book 121, folio 899, Nov. 5, 1885.

Eleventh. A certain square of ground in the 6th district of the city of New Orleans, bounded by Pitt, Prytania, & Calhoun streets & Henry Clay avenue, designated as square No. 51. Said square measures 254 feet by 257 feet by 289 feet; acquired Nov. 4, '85, from Henry Chiapella; registered in con. office, Book 121, folio 900. Nov. 5, '85.

Twelfth. Three (3) certain lots of ground in the 6th district of the city of New Orleans, in square bounded by Pitt, Prytania, Leontine, & Valmont streets, designated as lots Nos. 3, 4, & 5, in square 358. Said lots measure each 28 feet & 10 inches front on Valmont street by a depth of 123 feet 1 inch; acquired Nov. 4, '85, from W. G. Hodges; registered in con. office, Book 121, folio 899, Nov. 5, 1885.

Thirteenth. Seven (7) certain lots of ground in the 6th district of the city of New Orleans, in square bounded by Pitt, Valmont, Boudousquie, & Leontine streets, designated as lots Nos. 14, 15, 16, 17, 18, 19, & 20, in square No. 397. Lots Nos. 14, 15, 16, 17, & 18 measure each 32 feet 7 inches & 4 lines front on Leontine streets by 109 feet 4 inches & 4 lines in depth. Nos. 19 & 20 measure each 30 feet front on Pitt St. by 130 feet 6 inches in depth. Acquired from W. G. Hodges Nov. 4th, 1885; registered in conveyance office, Book 121, folio 899; to have and to hold the said property unto the said purchaser or his heirs and assigns forever.

This sale is made and accepted for and in consideration of the price and sum of ten thousand ($10,000) dollars, in part payment and deduction whereof the said purchaser has well and truly paid in ready and current money the sum of five hundred ($500) dollars to the said Lake, vendor aforesaid, who hereby acknowledged the receipt thereof and grants full acquittance thereof.

And for the balance of said purchase price, to wit, the sum of nine thousand five hundred ($9,500) dollars, the said purchaser has furnished his nineteen (19) promissory notes, each for the sum of five hundred (500) dollars, drawn and subscribed by him, said Lallance, to the order of himself and by him endorsed, dated
49 this day and payable, respectively, as follows, to wit: First note, on Jan. 1st, 1886; second note, on February 1st, 1886; third note, on March 1st, 1886; fourth note, on April 1st, 1886; fifth note, on May 1st, 1886; sixth note, on June 1st, 1886; seventh note, on July 1st, 1886; eighth note, on August 1st, 1886; ninth note, on September 1st, 1886; tenth note, on October 1st, 1886; eleventh note, on November 1st, 1886; twelfth note, on December 1st, 1886; thirteenth note, on January 1st, 1887; fourteenth note,

on February 1st, 1887; fifteenth note, on March 1st, 1887; sixteenth note, on April 1st, 1887; seventeenth note, on May 1st, 1887; eighteenth note, on June 1st, 1887; nineteenth note, on July 1st, 1887; which said notes stipulate to bear interest at the rate of eight per cent. per annum from date until paid, and the same, after having been paraphed *ne varietur* by me, the undersigned notary, to be identified herewith, were delivered to said Lake, who hereby acknowledges receipt thereof.

It is especially understood and agreed that in case of any one of the said notes not yet matured on their face value shall at once and *ipso facto* become due and payable and the amount represented by said notes not yet due on their face value shall at once become payable and exigible the same as each and all of said notes had regularly matured and had not been paid.

And now, in order to secure the full and punctual payment of the said notes at maturity, together with all interest, costs, and attorney's fees, special mortgage and vendor's lien & privilege are hereby retained and granted in favor of said vendor and of all future holders of the said notes on the property herein conveyed, which properties the said purchaser hereby binds himself not to sell, alienate, or in any way encumber, in whole or in part, to the prejudice of this act.

The said properties so to remain mortgaged and hypothecated with the full and final payment of the aforesaid promissory notes in capital and interest; and the said Lallance, purchaser, further declares that he does, by these presents, consent, agree, and stipulate that, in the event of the said promissory notes or any of them not being punctually paid at maturity, it shall be lawful for and he hereby authorizes the said vendor or any other holder or holders thereof to cause all and singular the said herein-before-described and herein-mortgaged properties to be seized and sold, under process issued by any competent court, without appraisement, to the last and highest bidder, payable cash, said Lallance hereby specially dispensing with all and every appraisement thereof, by these presents waiving and renouncing the benefits of appraisement and of law or parts of laws relative to the appraisement of movable or immovable effects, etc., seized and sold under executory or other legal process.

And Lallance hereby confesses judgment in favor of said vendor and of such person or persons who may hereafter acquire said notes or any part thereof to the full amount of said note-, together with all lawyer's fees, interest, costs, and charges, said lawyer's fees being fixed at four per cent. on the amount sued for.

By reference to the annexed certificate of the register of conveyances, dated this day, it does not appear that said Lake has alienated any portion of the property herein conveyed.

By reference to annexed certificate of the recorder of mortgages, it does not appear that there are any mortgages standing against the said property except the State taxes on said property for the years 1880 to 1885, inclusive.

Said purchaser binds and obligates himself to clear all of said properties from all taxes, city and State, which it may be claimed

are due by said properties, said purchaser declaring that none of the said city or State taxes are legally due by or on said properties.

Thus done and passed at my office, in the city of New Orleans, on the day, month, and year first above written, in the presence of James Zacharie Spearing and Robert Saunders Scott, competent witnesses, who hereinto sign these presents with said appearers and me, notary, after reading of the whole.

51 (Original signed) ORLOFF LAKE.
THOMAS L. LALLANCE.
R. SAUNDERS SCOTT.
JOSEPH H. SPEARING,
Not. Pub.

Registered in the conveyance office, Book 121, folio 990.
New Orleans, Jan. 13, 1886.
C. H. BREEN, *D'y R. C.*

Recorded in mortgage office, Book 326, folio 180.
New Orleans, Jan. 15th, 1886.
FRANK WALL, *Cl'k.*
GEO. GINAULT, *D. R.*

A true copy of the original of record in my notarial records.
In witness whereof I hereunto sign my name, affixed my seal of office, at the city of New Orleans, on this sixth day of February, 1891.
JOS. H. SPEARING, *Not. Pub.*

Act of sale from Thomas L. Lallance to J. H. Lang, together with certificate of registration of same in the conveyance office, in Book 136, folio 364. Offered in evidence by defendants and warrantors.

Jan. 30, 1891. Sale—Thomas L. Lallance to J. H. Lang.

UNITED STATES OF AMERICA,
State of Louisiana, Parish of Orleans, City of New Orleans.

Be it known that on this thirteenth day of January, in the year of our Lord one thousand eight hundred and ninety-one and of the Independence of the United States the one hundred and fifteenth, before me, Joseph H. Spearing, a notary public in the parish of Orleans, State of Louisiana, aforesaid, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Thomas L. Lallance, a resident of the parish of De Soto, in this State, who declared that for the price and on the terms hereinafter stipulated he does by these presents sell, transfer, assign, convey, and deliver, with full warranty and guarantee against — claims whatsoever and with full substitution and subrogation in and to all his rights and actions in warranty against all preceeding vendors, unto John H.

52

Lang, a resident and citizen of Harrison county, State of Mississippi, here present, accepting these presents and purchasing for himself, his heirs and assigns forever, the following-described property, to wit:

(1st.) Two certain lots of ground adjoining each other in the 4th district of the city of New Orleans, in square bounded by Philip, White (or Basin), Laurent, & Jackson streets, designated as lots Nos. 7 & 8, in square No. 295, said lots Nos. 7 & 8 together measuring 60 feet and nine inches on Philip street and from corner White & Philip streets by a depth of 122 to 124 feet 6 inches.

Second (2). Four certain lots of ground in the 6th district of the city of New Orleans, in square bounded by Tchoupitoulas, Front, Joseph, & Octavia streets, designated as lots Nos. 7, 8, 9, 10, in square 69. Said lots Nos. 7, 8, & 9 adjoin each other and measure 93 feet on Front street by a depth of 110 feet. Lot No. 10 is in the rear of above lots and measures 30 feet front on Octavia street by a depth of 139 feet and 6 inches.

Third (3). A certain lot of ground in the 6th district of the city of New Orleans, in square bounded by Tchoupitoulas, Jersey, Soniat, & Robert streets, designated as lot 19, in square No. 123, measuring 30 feet & 2 inches front on Soniat street by a depth of 120 feet.

Fourth (4). One-half of a certain square of ground in 6th district of the city of New Orleans (Greenville), bounded by Oliver, Wall, Lowerline, & Pine streets, designated as one-half of square 35 of said district. Said ½ of square 35 contains 10 lots numbered from 11 to 20, inclusive, lots Nos. 11, 12, 13, & 14 measuring each 30 feet front on Wall street by 120 feet in depth. Lots Nos. 15 & 16
53 measure each 30 feet front on Pine street by 120 feet in depth. Lots Nos. 17, 18, 19, & 20 measure each 30 feet on Oliver street by 120 feet in depth.

Fifth (5). A certain square of ground in the 6th district of the city of New Orleans (in Burtheville), bounded by Plaquemine, Perrier, & Webster streets & Henry Clay avenue, designated as square No. 42, in said district. Said square measures 279 by 289 feet, more or less, & contains 22 lots, numbered from 1 to 22, inclusive.

Sixth (6). A certain square in the 6th district of the city of New Orleans, bounded by Prytania, Pitt, and Elinor streets and Nashville avenue, designated as square No. 48. Said square measures 240 feet front on each Pitt & Prytania streets by 300 feet front on each Elinor streets and Nashville avenue.

Seventh (7). A certain square in the 6th district of the city of New Orleans, bounded by Esther, Ann, Pine, and Lowerline streets, designated as square No. 45 of said district. Said square measures 300 feet on each Pine and Lowerline streets and 250 feet on each Esther and Ann streets, and contains 20 lots, numbered from 1 to 20, inclusive.

Eighth (8). A certain square of ground in the 6th district of the city of New Orleans, designated as square No. 79 of said 6th district, bounded by Burthe, Second, Pine, & Broadway streets, and measures 240 feet on each Second and Burthe streets by 300 feet on each

Pine and Broadway streets, the foregoing properties being a portion of the same property acquired by said vendor as per act before me, undersigned notary, dated December 1st, 1885, duly registered in conveyance office, in Book 121, folio 990.

Ninth (9). Twelve (12) certain lots of ground, *and* together with all the buildings and improvements thereon and rights, ways, and privileges and appurtenances thereunto belonging or in anywise appertaining, in the Seventh district of the city of New Orleans, in the square bounded by Plum, Adams, Burdette, & Fourth streets, designated as lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12, in square No. 155, formerly square 46 A, on a plan by H. A. Boudousquie, dated Feb. 3rd, 1871, deposited in office of Theo. Guyol, N. P. Said lots 1, 2, 3, 4, 5, 6, 7, 8, & 9 measure 270 feet front on Fourth street by 120 feet in depth. Lot No. 10 measures 30 feet front on
54 Fourth street by 120 feet in depth. Lots 11 & 12 measure 60 feet front on Adams street by 150 feet in depth, and said lot No. 1 forms the corner of Fourth and Burdette streets, and lot No. 10 forms the corner of Fourth and Adams streets, the same being a portion of the same property acquired by the late Philip McIntyre, Jr., from Canal bank, as per act before Theodore Guyol, not. pub., dated March 15th, 1871, duly registered in conveyance office, in Book 5, folio 354, Carrollton transcripts.

Tenth (10th). Seventeen (17) certain lots of ground, together with all the buildings and improvements thereon and rights, ways, privileges, and appurtenances thereunto belonging or in anywise appertaining, in the Seventh district of the city of New Orleans, in the square bounded by Plum, formerly Josephine; Short, Washington, & Fourth streets, designated as lots Nos. 1, 2, 3, 4, 5, 6, 7, 11, 12, 17, 18, 19, 20, 21, 22, 23, & 24, in square No. 153, formerly square B 48, on a plan by Louis Bringier, surveyor, dated 12th Nov., 1835, deposited in the office of J. B. Marks, late N. P. Lot No. 1 measures 30 feet front on Washington street by a depth of 107½ feet. Lots Nos. 2, 3, 4, 5, 6, & 7 measure 180 feet front on Washington street by 107 feet & 6 inches in depth. Lots Nos. 11 & 12 measure 60 feet front on Josephine, now Plum, street by 150 feet in depth. Lots Nos. 17, 18, 19, 20, 21, & 22 measure 180 feet front on Short street by 107 feet 6 inches in depth. Lots Nos. 23 & 24 measure 60 feet front on Fourth street by 150 feet in depth. Said lot No. 1 forms corner of Washington & Fourth streets, and said lot No. 22 forms the corner of Short & Fourth streets. All measurements are between equal and parallel lines, the two last-described properties being the same property acquired by said vendor from Mrs. Lucretia Davis, widow by first marriage of Philip McIntyre, Jr., now wife of George Ausson; and Clarence E. McIntyre & George McIntyre, heirs of Philip McIntyre, Jr., as per act before me, undersigned notary, dated October 25th, 1890, duly registered in conveyance office, in Book 137, folio 238:

To have and to hold said property unto said purchaser, his heirs and assigns forever.

55 These presents are made and accepted for and in consideration of the assumption by said purchaser of the mortgage for

nine thousand five hundred ($9,500) dollars against said properties, recorded in mortgage office, in Book 326, folio 180; which said mortgage is represented by nineteen promissory notes, each for five hundred ($500) dollars, dated December 1, 1885, made and signed by the vendor herein to his own order and by him endorsed; which said notes are identified with the said act of purchase by said Lallance of said properties, passed before me, undersigned notary, and dated, as aforesaid, December 1, 1885; which said 19 notes, each for $500, said puchaser assumes and promises to pay.

At the time of the purchase of the property herein — was — unmarried man, and that the wife he has since married is still alive.

By reference to the annexed certificate of the register of conveyances, it does not appear that said vendor has heretofore alienated said property.

The parties *have hereto* dispensed with a mortgage certificate, they both declaring that they are perfectly aware of all the mortgages on said properties.

All the city and State taxes for the years 1888, 1889, and 1890 have been paid, said parties declaring that all other taxes claimed as due by and on said property are null and void and are not due or owing, and that said properties are free of all legal taxes whatsoever.

Thus done and passed, in my office, in the city of New Orleans aforesaid, on the day, month, and year first above written, in the presence of Mes-rs. J. Zach. Spearing and Harry W. Glaser, competent witnesses, residing in this parish, who hereunto sign their names with the said parties and me, notary, after due reading of the whole.

N. B.—Twenty-seven words erased on page seven and approved before signing.

(Original signed) THOMAS L. LALLANCE.
JOHN H. LANG.
J. ZACH. SPEARING.
HARRY W. GLASER.
JOS. H. SPEARING, *Not. Pub.*

Registered in conveyance office, Book 136, folio 364.
New Orleans, Jan. 30th, 1891.
(Signed) A. BUISSON, *D. R.*

56 Recorded in mortgage office, Book 419, folio 564.
New Orleans, Feb. 4, 1891.
(Signed) J. H'Y FORCELLE, *Cl'k.*
(Signed) V. J. JOUBERT, *D. R.*

A true copy.
(Signed) JOS. H. SPEARING, *Not. Pub.*

Copy of Advertisement. Offered in Evidence by Plaintiff. Filed Jan. 4th, 1895.

Tax sales.

Office of the collector of State taxes, Upper district, 77 Carondelet street.

NEW ORLEANS, LA, *June 30th*, 1885.

By virtue of the power in me vested by act 82 of 1884, approved July 10th, 1884, and — pursuance of the provisions of the same and of the laws in such cases provided, I, James D. Houston, State tax-collector of the Upper or First district of New Orleans, in person or by deputy, will offer for sale, at public auction, all the property hereinafter described, together with all the improvements thereon, at the St. Charles auction exchange, on St. Charles street between Common and Gravier streets, in this city, beginning, at 2.30 p. m., on Thursday, the thirtieth day of July, 1885, and continuing from day to day until all the property hereinafter described has been offered for sale; which said properties have heretofore been adjudicated to the State according to law for the unpaid State taxes for the years enumerated at the close of the description of each piece of property hereinafter described.

In the event that all the forms of law have not been complied with in said adjudication to the State and the adjudication to the State not perfect, the taxes for said years are, nevertheless, due to
57 the State, and the properties hereinafter described, with all the improvements, will be offered for sale on said day and following days until said list is completed, to enforce the payment of the unpaid taxes due to the State for said years enumerated at the close of each description; also after each description are enumerated the unpaid taxes due to the city of New Orleans prior to December 31st, 1879.

Each piece of property hereinafter described will be offered for sale separately to enforce the payment of taxes for said years, and will be adjudicated and sold to the last and highest bidder, according to the terms and provisions of said act No. 82 of 1884. In pursuance of each adjudication a deed of sale by authentic act will be executed for each piece of property and improvements in favor of each purchaser, and duly certified copies of such deeds will be full proof of all contained therein.

All sales vest in the purchaser an absolute and perfect title to the property sold without any redemption whatever, and the purchaser is entitled to immediate possession of the property as sole owner thereof in case the State should fail to give the purchaser an absolute title to the property sold, or if the title to the purchaser is null and void for any cause, then the amount paid by the purchaser to the State for said property will be refunded him, the State, under the provisions of said law, guaranteeing the titles to the property sold under the said act, and the State tax-collector is authorized

under said act to refund, and will refund, to purchasers the amounts paid by them in case the State fails to give an absolute title to the property sold. The price paid for each piece of property will be in full payment of all State, parish, and city and municipal taxes due on the same prior to January 1st, 1880, and the recordation in the mortgage office of the deeds or of a copy thereof will operate as a cancellation of all State, city, municipal, and parish taxes due prior to January 1st, 1880, and of all mortgages, liens, etc., to the date the property is sold.

The properties hereinbefore referred to are described as
58 follows, to wit:

Descriptions of property from No. 323 to 339, both inclusive, not arranged alphabetically as to names.

340, a certain square of ground in the Sixth district of the city of New Orleans, bounded by Prytania, Pitt, Elinor streets and Nashville avenue, designated as square No. 48; said square No. 48 measures 240 feet front on each of Pitt and Prytania streets by 300 feet front on each of Elinor street and Nashville avenue.

Which property was assessed for the years 1876, 1877, 1878 in the name of Rafael Maria Del Castillo; of which property R. M. Del Castillo or her estate and heirs are the present owners.

And on which property the State taxes for the following years, viz, 1876, 1877, 1878, amounting to $38.50, are now due and unpaid.

And also on which property the city taxes for the years 1877, 1878, and 1879, amounting to $45.00, are now due and unpaid.

Description of property from No. 341 to 388, both inclusive, not arranged alphabetically.

Extract from the minutes.

MONDAY, *April* 16, 1894.

R. M. CASTILLO
vs.
W. L. MCCONNICO. } 42007.

The exceptions in this case filed by defendant came up this day for hearing—present, W. S. Parkerson, Esq., for plaintiff; R.H. Lea, Esq., for defendant & exceptor—and after hearing pleadings and counsel and for the reasons orally assigned in open court—

It is ordered that said exception be overruled.

Extract from the minutes.

MONDAY, *June* 11*th*, 1894.

The exception of warrantor J. H. Lang, filed herein, came
59 up this day for trial—present, W. S. Parkerson, Esq., for plaintiff; J. Zach. Spearing, Esq., for defendant—and after hearing pleadings and counsel said exception was ordered overruled.

Record No. 44386, civil district court, entitled J. H. Lang *vs.* Maurive Kauffmann *et al.*, offered in evidence by defendant and warrantors.

Petition. Filed Nov. 30, '91.

To the honorable civil district court of the parish of Orleans:

The petition of John H. Lang, a resident of the county of Harrison, State of Mississippi, respectfully represents that he is the sole and only owner of the following-described property, to wit, a certain square of ground in the 6th district of this city, bounded by Nashville avenue, Prytania, Pitt, and Elinor streets, designated by the No. 48; which said square measures 300 feet on each of Nashville avenue and Elinor St. and 240 feet on each Prytania and Pitt Sts., more or less, being the same property which petitioner acquired from T. L. Lallance, as per an act of sale passed before J. H. Spearing, not. pub., in this city, on Jan. 30th, 1891; registered in conveyance office, B'k 146, fo. 364; since which time petitioner has been in full, quiet, and uninterrupted possession of said property as owner, and on which he has paid all taxes due since 1880.

Petitioner further shows that on the 20th day of July, 1891, he entered into a written contract with Messrs. Maurice Kauffmann and W. H. Fitzpatrick, also resident of said city, by which petitioner bound and obligated himself to sell to said Kauffmann & Fitzpatrick and said Kauffmann & Fitzpatrick bound and obligated themselves to purchase from petitioner the aforedescribed square of ground for the price and sum of twenty-five hundred dollars ($2,500.00), payable one-third cash and balance in one and two years after date, with 8 % interest from date; that said Kauffmann & Fitzpatrick now refuse to comply with their said contract without any just or legal cause or excuse; that said Kauffmann & Fitzpatrick should be compelled to comply with their said contract, to accept and pay for said property. Petitioner annexes and files herewith a duly certified copy of said act of sale by which he purchased said property. Petitioner alleges that all the forms of law were complied with in the assessment and sale of said property, and that Rafael Del Castillo, who was the owner of said property previous to petitioner's acquisition thereof, was duly and legally notified of the assessment of said property for all the years for which it was sold and of the advertisement and sale thereof under act No. 82, 1884.

The premises considered, petitioner prays that said Maurice Kauffmann & W. H. Fitzpatrick be duly cited to answer this demand; that after due proceedings there be judgment in favor of petitioner and against said M. Kauffmann & W. H. Fitzpatrick, ordering them and each of them to accept the said property and the title to the same, as tendered by petitioner, and pay to petitioner as the price thereof the sum of twenty-five hundred ($2,500.00) dollars, payable one-third cash and the balance in one and two years after date, with

8 % interest from date, with the usual security clauses; and petitioner further prays for all costs and general relief.

(Signed) J. ZACH. SPEARING,
Att'y for Lang.

Service accepted.

(Signed) HEWES T. GURLEY,
Att'y for M. Kauffmann & W. H. Fitzpatrick.

Answer of Defendant-. Filed Dec. 26th, 1891.

LANG *et al.* *vs.* KAUFFMANN *et al.* } No. 34386. Civil District Court, Parish of Orleans.

Answer. Filed Dec. 2[illegible]th, 1891.

61 Now into court comes defendants, and for answer to plaintoff's petition den*ies* all and singular the allegations therein contained, except as herein specially admitted.

Def'ts admit that they agreed to the purchase of the property described in plaintiff's petition for the price and upon the terms and conditions therein set forth, but allege that they declined to receive said property and pay therefor because of their opinion that plaintiffs had not just or legal title to said property or title translative of property.

The plaintiff acquired title from Thos. L. Lallance, by act before J. H. Spearing, on Jan. 13, 1891; that said Lallance acquired from Orloff Lake, by act before J. D. Spearing, on Dec., 1885; said Lake acquired from Maria Del Castillo, by act before Jos. D. Spearing, on Nov. 4, 1885; that said transfer from said Castillo to said Lake is what is commonly known as a tax title, it being a sale of said property by the State of Louisiana to enforce the payment of taxes for the years 1876, 1877, & 1878; that said sale was made under No. 82 of the act of the legislature of 1884.

That plaintiff's title to said property therefore rests upon said tax title, and that same is defective, null, and void in this, that it is an attempted divestiture of the title of the said property without previous notice to said owner and without compliance with the formalities prescribed by law for the sale of property for taxes.

That for the years for which the said taxes were levied the State of Louisiana was just recovering from the effects of the civil war, and all the records of the State were in confusion and disorder, and the State government was in a state of anarchy and disruption; that the records of the tax-collector were not properly kept and do not show with any degree of accuracy which taxes were paid and which not; that many of the tax records are destroyed and obliterated.

That defendants therefore have reason to believe the said taxes for which the said property was sold had been paid, and that the tax receipts showing such payment may at some future date
62 be produced and defendants' title thereby divested.

That no notice of said intended tax sale was given to the previous owner, nor were the assessments upon which the said sale was made valid and binding, and for radical defects on the face of said deed and in the proceedings had leading up thereto, as well as the assessment and pretended sale of said property, the title is bad and defective and not such a title as he is bound to take.

Therefore defendant- prays that plaintiff's petition be dismissed with costs; that their title be declared defective and invalid; that defendants be relieved from the acceptance of the same, and for all general and equitable relief.

HEWES T. GURLEY,
Att'y for Def'ts.

Note of Evidence. Filed Feb. 4th, '92.

J. H. LANG
vs.
M. KAUFFMANN *et al.*
No. 34386. Civil District Court, Div. A, Docket 5.

Note of evidence and testimony taken on the trial of the above entitled and numbered cause February 4th, 1892.

Present: J. Zach. Spearing, att'y for plaintiff, & Hewes T. Gurley, att'y for defendants.

Counsel for plaintiff offers, introduces, and files in evidence the following-mentioned documents, to wit:

(1.) A duly certified copy of the act of sale of the property in controversy under act 82 of 1884 from James D. Houston, State tax-collector, to Orloff Lake, passed before Joseph H. Spearing, not. pub., dated Nov. the 4th, 1885, and the registry thereof in the conveyance office of this parish, in B'k 121, folio 899, on Nov. 5th, 1885, said sale being for State taxes due previous to Dec. 31st, 1879; (2) a duly certified copy of the act of sale of said property from said Orloff Lake to Thomas L. Lallance, passed before said J. H. Spearing, not. pub., on Dec. 1st, 1885, and the registry thereof in
63 said conveyance office, in B'k 121, fo. 990, Jan. 13th, 1886; (3) a duly certified copy of the act of sale from said Thomas L. Lallance to Jno. H. Lang (plaintiff herein), passed before said J. H. Spearing, not. pub., on Jan. 30th, 1891, and the registry thereof in said conveyance office, in B'k 136, fo. 364, on Jan. 30th, 1891; (4) a certificate from the city comptroller showing that all city taxes on said property up to and including those for the year 1891 are paid; (5) a certificate from the State tax-collector of the 4th & 6th districts, showing that all State taxes on said property up to and including those for the year 1891 are paid; (6) the contract between the plaintiff and defendants herein, whereby said defendants bound themselves to purchase said property as alleged in the petition.

J. Zach. Spearing says that the late law firm of Jos. H. & J. Zach. Spearing, of which he was a member, was the attorney for said Lake, Lallance, and Lang, the successive owners of said property

since said tax sale in 1885; that said Orloff Lake obtained physical possession of said property shortly after he purchased same at said tax sale; that the said possession of said Lake was transferred to the successive purchasers of said property, and that J. H. Lang, plaintiff herein, now has the physical possession of said property; that all the taxes due on or by said property since 1880 have been paid respectively by said Lake, Lallance, and Lang.

Cross-examination:

Neither Lake, Lallance, or Lang has ever had any one to dispute their title or ownership to said property, nor have any suits been brought against them or any of them to evict them from the possession of said property, nor has any other person pretended to have any claim to the same since said tax sale.

Contract—Lang to Fitzpatrick and Kauffmann. Offered in Evidence by Plaintiff. Filed Feb. 4, '92.

Mr. John H. Lang, through his undersigned attorney-in-fact, hereby agrees and binds himself to sell and transfer unto Maurice Kauffmann and William H. Fitzpatrick the following-de-
64 scribed property: A certain square of ground in the 6th district, bounded by Nashville avenue, Prytania, Pitt, and Elinor Sts., designated as square No. 48, which said square measures 300 feet on each Nashville avenue and Elinor St. and 240 feet on each Prytania and Pitt Sts., more or less, being the property sixthly described in an act of sale of above and other property from Thomas L. Lallance to said Lang, passed before J. H. Spearing, not. pub., Jan. 30th, 1891, duly registered in con. office, B'k 136, folio 364, the said sale to be with full warranty and free of all taxes and mortgages except taxes for 1891, which are to be paid by said Fitzpatrick and Kauffmann. The price and consideration of this sale to be twenty-five hundred ($2,500) dollars, payable one-third cash, balance in one and two years, with 8% interest from date. Said Fitzpatrick and Kauffmann on their part binds *himself* to buy and accept said property for said price and on said terms and conditions and to pay said price for same. Act of sale to be passed before J. Zach. Spearing, not. pub., at the expense of said purchasers.

Words "Maurice Kauffmann" and "Kauffmann" & "buy" interlined and approved before signing.

New Orleans, July 24th, 1891.

(Signed) W. H. FITZPATRICK.
MAURICE KAUFFMANN.
JOHN H. LANG,
Per J. ZACH. SPEARING,
Att'y-in-fact.

Accepted.

(Signed) JOHN H. LANG,
p. pr. J. ZACH. SPEARING,
Att'y-in-fact.

City Tax Certificate. Offered in Evidence by Plaintiff. Filed Feb. 4th, '92.

COMPTROLLER'S OFFICE,
CITY OF NEW ORLEANS, LA., *Feb'y 3rd*, 1892.

By a research made this day on real estate in square No. 48, 15th assessment district, bounded by Nashville, Prytania, Pitt,
65 Elinor, 240 x 300, the city taxes appear as follows:

Year.	No. bill.	Name.	Tax.
1870	4926	R. Costello	Paid.
1871	5096	"	"
1873	6751	"	"
1874	6618	"	"
1875	6455	"	"
1876	6180	"	"
1877	6116	"	Cancelled, act 82 of 1884.
1878	6546	"	" " "
1879	6535	"	" " "
1880	6390	"	Paid.
1881	6066	"	"
1882	6724	"	"
1883	6893	"	"
1884	6875	"	"
1885	7017	"	"
1886	1582	Thos. L. Lallance.....	"
1887	1597	"	"
1888	1583	"	"
1889	5603	"	"
1890	4598	"	"
1891	1411	John H. Lang	"

The foregoing is a correct and true statement as taken from tax records on file in this office.

(Signed) E. JAUNET,
For Comptroller.

State Tax Certificate. Offered in Evidence by Plaintiff. Filed Feb. 4th, '92.

State tax-collector, 4th, 6th, & 7th districts.

Certificate of State Taxes.

NEW ORLEANS, *July* 25, 1891.

66 The research made this day on real estate in square No. 48, Hurst, 6th M. D., bounded by Prytania, Pitt, Elinor, & Nashville Ave., sq. 240 x 300, is as follows:

Year.	*Assessment.*	Assessment.	Tax.	Remarks.
1891	Jno. H. Lang.....	1,500	Paid	
1890	Thos. L. Lallance	800	"	
1889	"	900	"	
1888	"	900	"	
1887	"	900	"	
1886	"	900	"	
1885	R. Costello	900	"	
1884	"	700	"	
1883	"	700	Redeemed Aug. 12, '91..	
1882	"	700	Do. do. ..	
1881	"	500	Do. do. ..	
1880	"	500	Do. do. ..	
1878	"	1,000	P'd as per sale, act 82, '84.	
1877	"	1,000	Do. do.	
1876	"	1,000	Do. do.	
1875	"	.....	Not on rolls.....	
1874	"	.....	Do. do.	
1873	"	.....	Do. do.	
1872	"	.....	Do. do.	
1871	"	.....	Do. do.	
1870	"	.....	Do. do.	
1869	....	.....	No rolls	

The foregoing is a true and correct statement as taken from the tax records on file in this office.

(Signed) W. F. PATTON,
Per A. JONES,
D'y State Tax-collector.

67 *Judgment.*

J. H. LANG
vs.
M. KAUFFMANN *et al.* } No. 34386. Civil District Court, Div. A.

This cause came up for trial on this day—present, J. Zach. Spearing, att'y for plaintiff; Hewes T. Gurley, att'y for defendants—and, after hearing pleadings, evidence, and counsel, the court considering the law and the evidence to be in favor of plaintiff and against defendants, and for the reasons orally assigned—

It is ordered, adjudged, and decreed that there be judgment in favor of plaintiff, John H. Lang, and against defendants, Maurice Kauffmann and W. H. Fitzpatrick, ordering the said defendants, Kauffmann & Fitzpatrick, to comply with their contract entered into on the 24th day of July, 1891, with plaintiff herein, and condemning said defendants to accept the title to the property described as "a certain square of ground in the Sixth district of the city of New Orleans, bounded by Prytania, Pitt & Elinor Sts. & Nashville avenue, designated as square 48, measuring 300 feet front on each Elinor street and Nashville avenue and 240 feet on each Pitt & Prytania streets," and to pay to plaintiff therefor the sum of twenty-five hundred ($2,500) dollars, one-third cash and the balance in one and two years, with eight per cent. interest per annum from July 24th, '91, until paid, with the usual security clauses.

It is further ordered that defendants pay all costs of suit.

Judgment rendered Feb. 4th, 1892.

Signed February 10th, 1892.

(Signed) THOS. C. W. ELLIS, *Judge.*

No. 676. Sale—State of Louisiana, R. Maria Del Castillo to O. Lake.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans. }

68 Be it known that on this fourth day of November, in the year of our Lord the one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and tenth, before me, Joseph Hall Spearing, a notary public in and for the parish of Orleans, State of Louisiana, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Joseph Deposito, the duly appointed and authorized deputy of James D. Houston, State tax-collector of the First or Upper district of the city of New Orleans aforesaid, duly commissioned and qualified, who declared that, in pursuance of and by virtue of the power in him vested by the act of the legislature of this State at the session of 1884, being act No. 82, approved July 10th, 1884, and the laws in such case provided, he proceeded at the earliest date to advertise for sale at public auction all property situated in the upper districts of this city, together with all improvements thereon, on which there remained

unpaid taxes due to the State prior to December 31st, 1879; that all such property, with the improvements, &c., was advertised three times in thirty days, in English, in a daily paper published in the city of New Orleans, to wit, The Daily States, the last advertisement occurring on the day such property was advertised to be sold, said property being advertised for sale at the Arcade auction exchange, in this city; that such properties were always advertised in the name of the party in whose name the same was assessed, and, when it was known, in the name of the present owner of same; that said advertisements described or identified said property and designated the time and place of offering; that, after having complied with all the requisites of law, he did offer for sale at public auction, at the time and place designated in such advertisements, to wit, at the Arcade auction exchange, all property so advertised, with all improvements thereon; that among and including in the property so advertised he did advertise according to law, and after a strict compliance with all the requisites of law, the following-described property, with all the improvements thereon, to wit:

69 A certain square of ground in the 6th district of the city of New Orleans, bounded by Prytania, Pitt, and Elinor streets and Nashville avenue, designated as square No. 48; said square No. 48 measures 240 feet front on each of Pitt and Prytania streets by 300 feet front on each of Elinor street & Nashville avenue, being the same property acquired by Rafael Maria Del Castillo from Jos. Flint, as per act before T. O. Stark, N. P., Dec. 23, 1851; registered in C. O., Jefferson transcripts, Book 3, folio 331; for sale at public auction on the 30th day of July, 1885, at the hour of three o'clock p. m., at the St. Charles auction exchange, in this city, on St. Charles street between Common and Gravier streets.

And said tax-collector further declared that under the terms and provisions of said act No. 82 of 1884 the aforesaid described property and improvements were advertised and offered for sale, as herein stated and according to law, to enforce the payment of the unpaid State taxes due on and by said property for the years 1876, 1877, 1878, which amount to the sum of thirty-eight & $\frac{50}{100}$ dollars ($38.50) and which State taxes were due and unpaid at the date of the sale of said property to the purchaser herein named; that said property and improvements were duly and legally assessed in the name of Rafael Maria Del Castillo for the years 1876, 1877, 1878 and as the property of R. M. Del Castillo, his or her estate and heirs, the present owners; that after having complied with all other legal requisites he did expose and offer the said hereinbefore-described property and improvements for sale at public auction, at the said St. Charles auction exchange, on St. Charles street between Gravier and Common streets, in this city, being the place designated in said advertisement, on the 30th day of July, 1885, to enforce the payment of the aforesaid unpaid State taxes (the said property not having been reached on the day the same was advertised to be sold or the list completed on said day, the said sales were continued over,

according to said advertisement, from day to day to said — day of ——, 188–, when said property was reached and offered for sale); that at said place and last date mentioned he did announce in a loud and audible voice the conditions and terms of said sale,
70 when John Z. Spearing, as the attorney-in-fact of Orloff Lake, as per power of attorney before J. F. Spearing, N. pub., 15th day of August, 1885, being the last and highest bidder for said property in the sum of thirty-five & $\frac{00}{100}$ dollars ($35.00), the said property and improvements were adjudicated according to law to the said Spearing, agent, &c., for account of said Lake, for said price and sum of thirty-five & $\frac{00}{100}$ dollars ($35.00), the said price bid for said property being in full and final payment and satisfaction of all the State, city, parish, and municipal taxes due on or by said property prior to December 31st, 1879, together with all the interest, costs, and charges on the same, and for all other taxes, tax liens, and tax privileges which fell due prior to Dec. 31st, 1879, according to the provisions of said act No. 82 of 84; that on said property there were due and unpaid at the time said adjudication and sale the taxes due to the city of New Orleans for the years 1877, 1878, 1879, amounting to the total sum of forty-five & $\frac{00}{100}$ dollars ($45.00).

And now, in pursuance of said adjudication and by virtue of said act No. 82 of 1884 and of the provisions of the laws in such cases provided and for the said consideration of thirty-five & $\frac{00}{100}$ dollars ($35.00), paid by said Spearing, agent, &c., for account of said Lake, the receipt whereof is hereby acknowledged, the said tax-collector, for and in name and on the behalf of the State of Louisiana, does by these presents sell, assign, transfer, and deliver unto the said Lake, through said Spearing, agent, &c., here present and accepting these presents and purchasing for himself, his heirs and assigns, the property hereinbefore described, together with all the improvements thereon and rights thereunto belonging, giving and granting to said purchaser an absolute and irredeemable title to said property, with the right to immediate possession thereof and free of all mortgages, liens, and privileges except for State and city taxes for the year 1880 and subsequent years, the State of Louisiana hereby agreeing to warrant and defend the title of said purchaser, and in case of eviction or failure on the part of the State to give an absolute and perfect title to said property to refund to said purchaser the said amount paid by him to the State for said
71 property. The said purchaser hereby assumes and promises to pay all the State, city, parish, and municipal taxes on said property for the year 1880 and subsequent years, together with all interest, costs, charges, fees, and commissions which may be due and not paid.

By reference to the annexed certificate of the register of conveyances dated October 27, 1885, it does not appear that said Rafael Maria Del Castillo has alienated the aforesaid described property acquired by her as aforesaid on December 23, 1851, registered in C. O., Jeff. Trans., Book 3, folio 331, except sale to State, State tax-collector's sale, tax 1880, Dec. 22, 1883, Book 122, fo. 288.

Sale to State, State tax-collector's sale, tax 1881, June 25, 1884, B'k 122.
Sale to State, State tax-collector's sale, tax 1882, Dec. 13, 1884, B'k 122.
Sale to State, State tax-collector's sale, tax 1883, Dec. 13, 1884, B'k 122.
Folio 315.
" 331.
" 359.

Act of sale. Offered in evidence by defendants and warrantors. Filed M'ch 29th, 1894.

In witness whereof the said Joseph Deposito, tax-collector aforesaid, executes this act of sale in the name and on behalf of the State of Louisiana in favor of the said O. Lake, at my office, in the city of New Orleans, on the date first above written, in the presence of James L. Spearing and R. Saunders Scott, competent witnesses, who also sign hereunto with said purchaser and me, notary, after reading of the whole.

N. B.—Three words interlined on page two and approved.

(Originally signed) J. D. HOUSTON,
Per J. DEPOSITO, *D'y.*
(Signed) ORLOFF LAKE,
Per JOHN F. SPEARING.
(Signed) J. Z. SPEARING.
(Signed) R. SAUNDERS SCOTT.
(Signed) JOS. H. SPEARING, *Not. Pub.*

Registered in conveyance office, Book 121, folio 899.
New Orleans, Nov. 5, 1885.
(Signed) C. H. D. BREEN, *D'y R. C.*

72 I, Henry L. Garland, Jr., custodian of notarial records, do hereby certify that the above and foregoing is a true and correct copy of the original now on file in my office.
New Orleans, March 27th, 1894.
(Signed) HENRY L. GARLAND, JR.,
Custodian Notarial Records.

Act of Sale. Offered in Evidence by Defendants and Warrantors. Filed Jan. 4th, 1895.

February 4th, 1885. Tax sale—sundry tax debtors to State of Louisiana.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans.

Be it known that on this fourth day of February, in the year of our Lord *the* one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and ninth,

before me, Joseph Hall Spearing, a notary public in and for the parish and State aforesaid, duly commissioned and qualified, in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Joseph Deposito, the duly appointed and authorized deputy of James D. Houston, State tax-collector of the Second or Lower district of the city of New Orleans, duly commissioned and qualified, who declared that in pursuance of and by virtue of the power in him vested by the act of the legislature of this State passed at the session of 1882, being act No. 96, p. 119 *et seq.*, of said year 1882, approved July 5, 1882, and of the laws in such cases provided, the tax or assessment rolls of this parish for the year 1882 on real estate were duly made out and completed according to law and filed and recorded in the mortgage office of this parish with the auditor and with him, the said tax-collector, before September 1st of said year 1882; that as soon as the said rolls were thus filed he, the said tax-collector, published a
73 notice once a week for two weeks in a paper published in this parish, setting forth in substance that the taxes assessed on real estate in this parish in the year 1882 are set forth in the said tax-rolls on file in said tax-collector's office and in the said mortgage office; that the said taxes are due and would become delinquent on December 31st, 1882; that the same will draw interest according to law from said December 31st, 1882, until paid or sold in accordance with article 210 of the constitution.

And said tax-collector further declared that he posted a similar notice on the principal door of the room in which the civil district court is held; that he endorsed on the tax-rolls retained in his office and on those deposited in the said mortgage office his certificate to the effect that he had so published and posted said notice.

And the said tax-collector further declared that as soon after the second day of January, 1883, as possible, he addressed and mailed to each tax-payer who had not paid his or her taxes on immovable property for said year 1882 a printed notice setting forth in substance that the State taxes assessed to and against said tax-payer for said year 1882 on immovable property in said parish (stating in said notice the property assessed and the assessed value of said property and the taxes due thereon) were them due, and that the tax-rolls had been filed in the mortgage office; that said taxes must be paid within twenty days after mailing of said notices; that the said taxes will bear interest, according to law, from December 31st, 1882, until paid in full; that after the expiration of twenty days from the date of the mailing of said notices he, the said tax-collector, will advertise for sale each specific piece of immovable property on which said taxes are due in the manner and form provided for judicial sales; that at the principal front door of the civil district court of said parish he will sell, within the legal hours for judicial sales, for cash and without appraisement, such portion of each specific piece of property as the debtor shall point out, and that in the case the tax-payer will not point out sufficient
74 property he, the said tax-collector, will at once sell for cash

and without appraisement the least quantity of said specific property which any bidder will buy for the amount of said taxes, interest, and costs.

And said tax-collector further declared that one of said notices, correct in form and substance, was duly and legally mailed to the delinquent tax-payer hereinafter named.

And said tax-collector further declared that he published once a week for two weeks in a newspaper published in this parish and district one general notice substantially in the foregoing form, addressed to all known and unknown owners of assessed immovable property situated in the said First or Upper district of the city of New Orleans, in which he described the property as described in the said tax-rolls; that he also posted a similar notice on the door of the civil district court, and that he has certified on his tax-rolls that he had so published and posted said notices.

And said tax-collector further declared that at the expiration of twenty days, counting from the day the last of said notices were delivered, mailed, published, or posted, he proceeded to advertise for sale, in the manner provided for judicial sales and in the form prescribed by law, all the immovable property on which said taxes were due, and that after having complied with all the other requisites of law he did advertise, according to law and in the manner provided for judicial sales, in The Daily States, a newspaper published daily in the city of New Orleans in the English language, and also in L'Abeille de la Nouvelle Orleans, a newspaper published daily in said city in the said French language, the properties hereinafter described to enforce the payment of State taxes due on same for the year 188–, the said properties being advertised in the name of the person or persons in which each piece was respectively assessed; that after said publication in such manner and form and for such time as are provided by law for judicial sales in this parish the properties hereinafter described were each separately offered for sale by said tax-collector to enforce the payment of said taxes
75 due on same; that after repeated crying and offering of the same on the 13th day of December, 1884, being the day on which said properties were legally advertised to be sold, and after a strict compliance with all other requirements of law, the same, together with all the improvements thereon, were each separately bid in for and adjudicated to the State by said tax-collector, no one having offered to pay said tax or to bid on said property at all or any portion thereof (nor offered to point out any property of the delinquent tax debtors), which said properties so adjudicated to the State are hereinafter separately described. Immediately following each description is the name of the person or persons in whose name the said property was assessed for said year 188–, together with the total amount for which said property were respectively offered and for which, in default of any bid or any offer to pay, each specific piece of property hereinafter described was respectively and separately adjudicated to the State; all of which said properties hereinafter described are situated in the Sixth district of the city of New Orleans, to wit:

Description No. 89.

A certain square of ground in the square bounded by Prytania, Pitt, and Elinor streets, and Nashville avenue, designated as the square No. 48, measuring 240 feet front by 300 feet in depth.

Which said property was duly and legally assessed for 1882 and advertised in the name of R. Castillo.

Total amount for which above property was adjudicated to State, including taxes of 1882, interest on same to date of adjudication, costs, fees, commissions, advertisements, etc., to wit, thirteen and $\frac{28}{100}$ dollars ($13.28).

And now, in pursuance of the said adjudication and by virtue of the provisions of said act No. 96 of 1882 and the laws for such cases provided, the aforesaid State tax-collector, in the name and on the behalf of the State of Louisiana, does by these presents grant, bargain, sell, assign, transfer, set over, and deliver unto the said State of Louisiana the property hereinbefore described, with all the
76 improvements thereon, and rights, ways, privileges, and appurtenances thereunto belonging or appertaining, with the right to be put into actual possession thereof by order of any court of competent jurisdiction, the said property being redeemable at any time for the space of one year, beginning on the date this act is filed in the conveyance office, by paying the price of adjudication, with twenty per cent. and costs added, in each instance.

In witness whereof the aforesaid tax-collector hereby executes this act of sale, in the name and on the behalf of the State of Louisiana, in favor of said State of Louisiana, at my office, in the said city of New Orleans, on the date first above written, in the presence of James Z. Spearing and R. Saunders Scott, competent witnesses, who also sign hereunto with me, notary, after reading of the whole.

N. B.—Nine words interlined on page one and seven on last page approved before signing.

(Originally signed) J. DEPOSITO,
D'y State Tax-collector of First or Upper District of City of New Orleans.
J. Z. SPEARING.
R. SAUNDERS SCOTT.
JOS. H. SPEARING, *Not. Pub.*

Registered in conveyance office, Book 122, folio 333, May 2, 1885.

(Signed) JOS. BATT, *R. C.*

I, Henry L. Garland, Jr., custodian of notarial records, do hereby certify that the above and foregoing is a true and correct copy of the original now on file in my office.

New Orleans, Dec. 19th, '94.

(Signed) HENRY L. GARLAND, JR.,
Costodian of Notarial Records.

Act of Sale. Offered in Evidence by Defendants and Warrantors. Filed Jan. 4th, 1895.

Feb'y 4th, 1885. Tax sale—sundry tax debtors to State of Louisiana.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans.

77 Be it known that on this fourth day of February, in the year of our Lord *the* one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and ninth, before me, Joseph Hall Spearing, a notary public in and for the parish and State aforesaid, duly commissioned and qualified, in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Joseph Deposito, the duly appointed and authorized deputy of James D. Houston, State tax-collector of the First or Upper district of the city of New Orleans, duly commissioned and qualified, who declared that in pursuance of and by virtue of the power in him vested by the act of the legislature of this State passed at the session of 1882, being act No. 96, p. 119 *et seq.*, of said year 1882, approved July 5, 1882, and of the laws in such cases provided, the tax or assessment rolls of this parish for the year 1883 on real estate were daily made out and completed according to law and filed and recorded in the mortgage office of this parish with the auditor and with him, the said tax-collector, before September 1st of said year 1883; that as soon as the said rolls were thus filed he, the said tax-collector, published a notice once a week for two weeks in a paper published in this parish setting forth in substance that the taxes assessed on real estate in this parish in the year 1883 are set forth in the said tax-rolls on file in said tax-collector's office and in the said mortgage office; that the said taxes are due and would become delinquent on December 31st, 1883; that the same will draw interest, according to law, from said December 31st, 1883, until paid or sold in accordance with article 210 of the constitution.

And said tax-collector further declared that he posted a similar notice on the principal door of the room in which the civil district court is held; that he endorsed on the tax-rolls retained in his office and on those deposited in the said mortgage office his certificate to the effect that he had so published and posted said notice.

And the said tax-collector further declared that as soon after the second day of January, 1884, as possible he addressed and mailed to each tax-payer who had not paid his or her taxes on immovable property for said year 1883 a printed notice setting forth in
78 substance that the State taxes assessed to and against said tax-payer for said year 1883 on immovable property in said parish (stating in said notice the property assessed and the assessed value of said property and the taxes due thereon) were then due, and that the tax-rolls had been filed in the mortgage office; that said taxes must be paid within twenty days after mailing of said notices; that the said taxes will bear interest, according to law,

from December 31st, 1883, until paid in full; that after the expiration of twenty days from the date of the mailing of said notices he, the said tax collector, will advertise for sale each specific piece of immovable property on which said taxes are due in the manner and form provided for judicial sales; that at the principal front door of the civil district court of said parish he will sell, within the legal hours for judicial sales, for cash and without appraisement, such portion of each specific piece of property as the debtor shall point out, and that in case *of* the tax-payer will not point out sufficient property he, the said tax-collector, will at once sell for cash and without appraisement the least quantity of said specific property which any bidder will buy for the amount of said taxes, interest, and costs.

And said tax-collector further declared that one of said notices, correct in form and substance, was duly and legally mailed to the delinquent tax-payer hereinafter named.

And said tax-collector further declared that he published once a week for two weeks in a newspaper published in this parish and district one general notice substantially in the foregoing form, addressed to all known and unknown owners of assessed immovable property situated in the said First or Upper district of the city of New Orleans, in which he described the property as described in the said tax-rolls; that he also posted a similar notice on the door of the civil district court, and that he has certified on his tax-rolls that he had so published and posted said notices.

And said tax-collector further declared that at the expiration of twenty days, counting from the day the last of said notices
79 were delivered, mailed, published, or posted, he proceeded to advertise for sale, in the manner provided for judicial sales and in the form prescribed by law, all the immovable property on which said taxes were due, and that after having complied with all the other requisites of law he did advertise, according to law and in the manner provided for judicial sales, in The Daily States, a newspaper published daily in the city of New Orleans in the English language, and also in L'Abeille de la Nouvell Orleans, a newspaper published daily in said city in the French language, the properties hereinafter described, to enforce the payment of State taxes due on same for the year 188–, the said properties being advertised in the names of the person or persons in which each piece was respectively assessed; that after said publications in such manner and form and for such time as are provided by law for judicial sales in this parish the properties hereinafter described were each separately offered for sale by said tax-collector to enforce the payment of said taxes due on same; that after repeated crying and offering of the same on the 13th day of December, 1884, being the day on which said properties were legally advertised to be sold, and after a strict compliance with all other requirements of law, the same, together with all the improvements thereon, were each separately bid in for and adjudicated to the State by said tax-collector, no one having offered to pay said tax or to bid on said property at all or any portion thereof (nor offered to point out any property of the delinquent

tax debtors), which said properties so adjudicated to the State are hereinafter separately described. Immediately following each description is the name of the person or persons in whose name the said property was assessed for said year 188–, together with the total amount for which said property were respectively offered and for which, in default of any bid or any offer to pay, each specific piece of property hereinafter described was respectively and separately adjudicated to the State, all of which said properties hereinafter described are situated in the — district of the city of New Orleans, to wit:

80 *Description No.* 94.

A certain square of ground in the square bounded by Prytania, Pitt, Elinor streets and Nashville avenue, designated by the No. 48, measuring 240 feet front by 300 feet in depth.

Which said property was duly and legally assessed for 1883 and advertised in the name of R. Castillo.

Total amount for which above property was adjudicated to State, including taxes of 1883, interest on same to date of adjudication, costs, fees, commission, advertisements, etc., to wit, twelve & $\frac{72}{100}$ dollars ($12.72).

And now, in pursuance of the said adjudication and by virtue of the provisions of said act No. 96 of 1882 and the laws for such cases provided, the aforesaid State tax-collector, in the name and on the behalf of the State of Louisiana, does by these presents grant, bargain, sell, assign, transfer, set over, and deliver unto the said State of Louisiana the property hereinbefore described, with all the improvements thereon and rights, ways, privileges, and appurtenances thereunto belonging or appertaining, with the right to be put into actual possession thereof by order of any court of competent jurisdiction, the said property being redeemable at any time for the space of one year, beginning on the date this act is filed in the conveyance office, by paying the price of adjudication, with twenty per cent. and costs added in each instance.

In witness whereof the aforesaid tax-collector, through Deposito, his duly authorized deputy, hereby executes this act of sale in the name and on the behalf of the State of Louisiana, in favor of said State of Louisiana, at my office, in the said city of New Orleans, on the date first above written, in the presence of James L. Spearing and R. Saunders Scott, competent witnesses, who also sign hereunto with me, notary, after reading of the whole.

N. B.—Nine words interlined on page one and seven on last page *and* approved before signing.

(Originally signed) J. DEPOSITO,
D'y State Tax-collector of Second or Lower District of City of New Orleans.

81 J. Z. SPEARING.
R. SAUNDERS SCOTT.
JOS. H. SPEARING, *Not. Pub.*

Registered in conveyance office, Book 122, folio 369.
New Orleans, May 2, 1885.
(Signed) JOS. BATT, *R. C.*

I, Henry L. Garland, Jr., custodian of notarial records, do hereby certify that the above and foregoing is a true and correct copy of the original now on file in my office.
New Orleans, Dec. 19th, '94.
(Signed) HENRY L. GARLAND, JR.,
Custodian of Notarial Records.

Act of Sale. Offered in Evidence by Defendants and Warrantors. Filed Jan. 4th, 1895.

January 17th, 1885. Tax sale—State of Louisiana, sundry tax debtors to State of Louisiana.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans.

Be it known that on this seventeenth day of January, in the year of our Lord the one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and ninth, before me, Joseph Hall Spearing, a notary public in and for the parish and State aforesaid, duly commissioned and qualified, in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Joseph Deposito, duly appointed and authorized deputy of James D. Houston, State tax-collector of the First or Upper district of the city of New Orleans, duly commissioned and qualified, who declared that in pursuance of and by virtue of the power in him vested by the act of the legislature of this State passed at the session of 1880, being act No. 77, p. 88 *et seq.*, of said year 1880, approved April 9, 1880, and of the laws in such cases provided, the tax — assessment rolls of this parish for the year 188– on real estate were duly made out and completed according to law and filed and recorded in the mortgage office of this parish with the auditor and with him, the said tax-collector, before September 1st of said year 188–; that as soon as the said
82 rolls were thus filed he, the said tax-collector, published a notice once a week for two weeks in a paper published in this parish, setting forth, in substance, that the taxes assessed on real estate in this parish in the year 188– are set forth in the said tax-rolls on file in said tax-collector's office and in the said mortgage office; that the said taxes are due and would become delinquent on December 31st, 188–; that the same will draw interest, according to law, from said December 31st, 188–, until paid or sold in accordance with article 210 of the constitution.

And said tax-collector further declared that he posted a similar notice on the principal door of the room in which the civil district court is held; that he endorsed on the tax-rolls retained in his office and on those deposited in the said mortgage office his certificate to the effect that he had so published and posted said notice.

And the said tax-collector further declared that as soon after the second day of January, 1882, as possible he addressed and mailed to each tax-payer who had not paid his or her taxes on immovable property for said year 1881 a printed notice setting forth, in substance, that the State taxes assessed to and against said tax-payer for said year 1881 on immovable property in said parish (stating in said notice the property assessed and the assessed value of said property and the taxes due thereon) were then due, and that the tax-rolls had been filed in the mortgage office; that said taxes must be paid within twenty days after mailing of said notices; that the said taxes will bear interest, according to law, from December 31st, 1881, until paid in full; that after the expiration of twenty days from the date of the mailing of said notices he, the said tax-collector, will advertise for sale each specific piece of immovable property on which said taxes are due, in the manner and form provided for judicial sales; that at the principal front door of the civil district court of said parish he will sell, within the legal hours for judicial sales, for cash and without appraisement, such portion of each specific piece of property as the debtor shall point out, and that in case the tax-payer will not point out sufficient property he,
83 the said tax-collector, will at once sell for cash and without appraisement the least quantity of said specific property which any bidder will buy for the amount of said taxes, interest, and costs.

And said tax-collector further declared that one of said notices, correct in form and substance, was duly and legally mailed to the delinquent tax-payer hereinafter named.

And said tax-collector further declared that he published once a week for two weeks, in a newspaper published in this parish and district, one general notice, substantially in the foregoing form, addressed to all known and unknown owners of assessed immovable property situated in the said Second or Lower district of the city of New Orleans, in which he described the property as described in the said tax-rolls; that he also posted a similar notice on the door of the civil district court, and that he has certified in his tax-rolls that he had so published and posted said notices.

And said tax-collector further declared that at the expiration of twenty days, counting from the day the last of said notices were delivered, mailed, published, or posted, he proceeded to advertise for sale, in the manner provided for judicial sales and in the form prescribed by law, all the immovable property on which said taxes were due, and that after having complied with all the other requisites of law he did advertise; according to law and in the manner provided for judicial sales, in The Daily States, a newspaper published daily in the city of New Orleans in the English language, and also in L'Abeille de la Nouvelle Orleans, a newspaper published daily in said city in the French language, the properties hereinafter described to enforce the payment of State taxes due on same for the year 188–, the said properties being advertised in the names of the person or persons in which each piece was respectively as-
84 sessed; that after said publications in such manner and

form and for such time — are provided by law for judicial sales in this parish the properties hereinafter described were each separately offered for sale by said tax-collector to enforce the payment of said taxes due on same; that after repeated crying and offering of the same on the 21st day of June, 1884, being the day on which said properties were legally advertised to be sold, and after a strict compliance with all other requirements of law, the same, together with all the improvements thereon, were each separately bid in for and adjudicated to the State by said tax-collector, no one having offered to pay said tax or to bid on said property at all or any portion thereof (nor offered to point out any property of the delinquent tax debtors); which said properties so adjudicated to the State are hereinafter separately described. Immediately following each description is the name of the person or persons in whose name the said property was assessed for said year 1881, together with the total amount for which said property were respectively offered, and for which, in default of any bid or any offer to pay, each specific piece of property hereinafter described was respectively and separately adjudicated to the State; all of which said properties, hereinafter described, are situated in the Sixth district of the city of New Orleans, to wit:

(Description of other properties from 1 to No. 261, inclusive.)

Description No. 262.

A certain square of ground bounded by Prytania, Pitt, Elinor streets and Nashville avenue, designated as square No. 48, measuring 240 feet front by 300 feet in depth.

Which said property was duly and legally assessed for 1881 and advertised in the name of R. Castillo.

Total amount for which above property was adjudicated to State, including taxes of 1881, interest on same to date of adjudication, costs, fees, commission, advertisements, etc., to wit, fifteen $\frac{10}{100}$ dollars ($15.10).

85 (Descriptions of other properties from No. 263 to No. 490, inclusive.)

And now, in pursuance of the said adjudication and by virtue of the provisions of said act No. 77 of 1880 and the laws for such cases provided, the aforesaid James D. Houston, State tax-collector, in the name and on the behalf of the State of Louisiana, does by these presents grant, bargain, sell, assign, transfer, set over, and deliver unto the said State of Louisiana the property hereinbefore described, with all the improvements thereon and rights, ways, privileges, and appurtenances thereunto belonging or appertaining, with the right to be put into actual possession thereof by order of any court of competent jurisdiction, the said property being redeemable at any time for the space of one year, beginning on the date this act is filed in the conveyance office, by paying the price of adjudication, with twenty per cent. and costs added, in each instance.

In witness whereof the said James D. Houston, aforesaid tax-collector, through Joseph Deposito, his duly authorized deputy, hereunto

signs his name and hereby executes this act of sale in the name and on the behalf of the State of Louisiana in favor of said State of Louisiana, at my office, in the said city of New Orleans, on the date first above written, in the presence of James Z. Spearing and R. Saunders Scott, competent witnesses, who also sign hereunto with me, notary, after reading of the whole.

N. B.—Nine words interlined on page one and seven on last page approved before signing.

(Originally signed) J. DEPOSITO,
D'y State Tax-collector of Second or Lower District of City of New Orleans.
J. Z. SPEARING.
R. SAUNDERS SCOTT.
JOS. H. SPEARING, *Not. Pub.*

Registered in conveyance office, Book 122, folio 325.
New Orleans, May 2, 1885.
(Signed) JOS. BATT, *R. C.*

I, Henry L. Garland, Jr., custodian of notarial records, do hereby certify that the above and foregoing is a true and correct copy of the original now on file in my office.
New Orleans, Dec. 19, 1894.
(Signed) HENRY L. GARLAND, JR.,
Custodian of Notarial Records.

86 *Act of Sale. Offered in Evidence by Defendants and Warrantors. Filed Jan. 4th, 1895.*

January 10, 1885. Tax sale—State of Louisiana, sundry tax debtors to State of Louisiana.

STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans.

Be it known that on this tenth day of January, in the year of our Lord *the* one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and ninth, before me, Joseph Hall Spearing, a notary public in and for the parish and State aforesaid, duly commissioned and qualified, in the presence of the witnesses hereinafter named and undersigned, personally came and appeared James D. Houston, State tax-collector of the First or Upper district of the city of New Orleans, duly commissioned and qualified, who declared that in pursuance of and by virtue of the power in him vested by the act of the legislature of this State passed at the session of 1880, being act No. 77, p. 88 *et seq.*, of said year 1880, approved April 9, 1880, and of the laws in such cases provided, the tax or assessment rolls of this parish for the year 1880 on real estate were duly made out and completed according to law and filed and recorded in the mortgage office of this parish, with the

auditor and with him, the said tax-collector, before September 1st of said year 1880; that as soon as the said rolls were thus filed he, the said tax-collector, published a notice once a week for two weeks in a paper published in this parish, setting forth in substance that the taxes assessed on real estate in this parish in the year 1880 are set forth in the said tax-rolls on file in said tax-collector's office and in the said mortgage office; that the said taxes are due and would become delinquent on December 31st, 1880; that the same will draw interest, according to law, from said December 31st, 1881, until paid or sold in accordance with article 210 of the constitution.

87 And said tax-collector further declared that he posted a similar notice on the principal door of the room in which the civil district court is held; that he endorsed on the tax-rolls retained in his office and on those deposited in the said mortgage office his certificate to the effect that he had so published and posted said notice.

And the said tax-collector further declared that as soon after the second day of January, 1881, as possible he addressed and mailed to each tax-payer who had not paid his or her taxes on immovable property for said year 1880 a written or printed notice setting forth in substance that the State and city taxes assessed to and against said tax-payer for said year 1880 on immovable property in said parish (stating in said notice the property assessed and the assessed value of said property and the taxes due thereon) were then due, and that the tax-rolls had been filed in the mortgage office; that said taxes must be paid within twenty days after mailing of said notices; that the said taxes will bear interest according to law from December 31st, 1880, until paid in full; that after the expiration of twenty days from the date of the mailing of said notices he, the said tax-collector, will advertise for sale each specific piece of immovable property on which said taxes are due in the manner and form provided for judicial sales; that at the principal front door of the civil district court of said parish he will sell, within the legal hours for judicial sales, for cash and without appraisement, such portion of each specific piece of property as the debtor shall point out, and that in case the tax-payer will not point out sufficient property he, the said tax-collector, will at once sell, for cash and without appraisement, the least quantity of said specific property which any bidder will buy for the amount of said taxes, interest, and costs.

And said tax-collector *d*urther declared that one of said notices, correct in form and substance, was duly and legally mailed to the delinquent tax-payer hereinafter named.

And said tax-collector further declared that he published once a week for two weeks, in a newspaper published in this
88 parish and district, one general notice, substantially in the foregoing form, addressed to all known and unknown owners of assessed immovable property situated in the said Second or Lower district of the city of New Orleans, in which he described the property as described in the said tax-rolls; that he also posted a similar notice on the door of the civil district court, and that he

has certified on his tax-rolls that he had so published and posted said notices.

And said tax-collector further declared that at the expiration of twenty days, counting from the day the last of said notices were delivered, mailed, published, or posted, he proceeded to advertise for sale, in the manner provided for judicial sales and in the form prescribed by law, all the immovable property on which said taxes were due, and that after having complied with all the other requisites of law he did advertise, according to law and in the manner provided for judicial sales, in The Daily States, a newspaper published daily in the city of New Orleans in the English language, and also in L'Abeille de la Nouvelle Orleans, a newspaper published daily in said city in the French language, the properties hereinafter described to enforce the payment of State taxes due on same for the year 1880, the said properties being advertised in the names of the person or persons in which each piece was respectively assessed; that after said publications in such manner and form and for such time as are provided by law for judicial sales in this parish the properties hereinafter described were each separately offered for sale by said tax-collector to enforce the payment of said taxes due on same; that after repeated crying and offering of the same on the 22nd day of December, 1883, being the day on which said properties were legally advertised to be sold, and after a strict compliance with all other requirements of law, the same, together with all the improvements thereon, were each separately bid in for and adjudicated to the State by said tax-collector, no one having offered to pay said tax or to bid on said property at all or any portion thereof (nor offered to point out any property of the delinquent tax debtors), which said properties so adjudicated to the State are
89 hereinafter separately described. Immediately following each description is the name of the person or persons in whose name the said property was assessed for said year 1880, together with the total amount for which said property were respectively offered, and for which, in default of any bid or any offer to pay, each specific piece of property hereinafter described was respectively and separately adjudicated to the State, all of which said properties hereinafter described are situated in the Sixth district of the city of New Orleans, to wit:

Description of other properties, from No. 1 to No. 16 (inclusive).

No. 17—Description.

A certain square of ground bounded by Prytania, Pitt, Elinor streets and Nashville avenue, designated as square No. 48, in Hurstville; said square No. 48 measures 240 feet by 300 feet.

Which said property was duly and legally assessed for 1880 and advertised in the name of R. Castillo.

Total amount for which above property was adjudicated to State, including taxes of 188–, interest on same to date of adjudication,

costs, fees, commission, advertisements, etc., to wit, fifteen $\frac{15}{100}$ dollars ($15.15).

(Description of other properties, from No. 18 to No. 45, inclusive.)

And now, in pursuance of the said adjudication and by virtue of the provisions of said act No. 96 of 1882 and the laws for such cases provided, the said Jas. D. Houston aforesaid, State tax-collector, in the name and on the behalf of the State of Louisiana, does by these presents grant, bargain, sell, assign, transfer, set over, and deliver unto the said State of Louisiana the property hereinbefore described, with all the improvements thereon, and rights, ways, privileges, and appurtenances thereunto belonging or appertaining, with the right to be put into actual possession thereof by order of any court of competent jurisdiction, the said property being redeemable at any time for the space of one year, beginning on the date this act is filed in the conveyance office, by paying the price of adjudication,
90 with twenty per cent. and costs added in each instance.

In witness whereof the said Jas. D. Houston, aforesaid tax-collector, hereunto signs his name and hereby executes this act of sale in the name and on the behalf of the State of Louisiana, in favor of said State of Louisiana, at my office, in the said city of New Orleans, on the date first above written, in the presence of James Z. Spearing and R. Saunders Scott, competent witnesses, who also sign hereunto with me, notary, after reading of the whole.

(Originally signed) JAMES D. HOUSTON,
State Tax-collector of Second or Lower District of City of New Orleans.
J. Z. SPEARING.
R. SAUNDERS SCOTT.
JOS. HALL SPEARING, *Not. Pub.*

Registered in conveyance office, Book 122, folio 290.

New Orleans, May 2nd, 1885.
(Signed) JOS. BATT, *R. C.*

I, Henry L. Garland, Jr., custodian of notarial records, do hereby certify that the above and foregoing is a true and correct copy of the original now on file in my office.

New Orleans, Dec. 19th, 1894.

(Signed) HENRY L. GARLAND, JR.,
Custodian of Notarial Records.

91 *Delinquent Tax for the Year* 1872.

Name.	No. of square.	Boundaries.	Assessment.	Amount of tax.	Remarks.
Castillo, Robert.	48	Prytania, Pitt, Elenore, & Nashville Ave.	2,000	43 00	Whole square, Hurst.

Delinquent Tax for the Year 1876.

Name.	Lot.	Sqr.	Boundaries.	Dimensions.	Ass't.	Tax.	Remarks.
Castillo, R..	Whole.	48	Prytania, Pitt, Elenore, & Nashville Ave.	240 x 300	1,000	14 50	Hurst.

Delinquent Tax for the Year 1877.

Name.	Lot.	Sqr.	Boundaries.	Dimensions.	Ass't.	Tax.	Remarks.
Castillo, R..	Whole.	48	Prytania, Pitt, Elenore, & Nashville Ave.	240 x 300	1,000	13 00	

I, the undersigned, recorder of mortgages in and for the parish of Orleans, State of Louisiana, do hereby certify the above to be a true and correct copy of the delinquent tax-list for the years 1872, 1876, and 1877, on file in my office.

New Orleans, March first, 1894.

(Signed) GEO. GUINAULT.

Filed Dec. 14th, 1894.

Copy of the delinquent tax-list from the mortgage office, offered in evidence by plaintiffs. Filed Dec. 14th, 1894.

		Names of taxable persons.	Color of taxable persons.	Name of streets.	No. of lots.	Measurement of all lots.	Objects. 1	2	3	4	5	6
							Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind.	Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals.	Cars, carriages, and vehicles of all kinds.	Merchandise or stock in trade.	Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description.	Money in possession, on deposit, or in hand.
	1	Hurstville.										*Total.*
	2	Square No. 48.....	....	Prytania, Pitt, Elenore, & Nashville Ave.								
	3											
1876	4	R. Castillo.....	....	1 square	.....	240-300	1,000	.....	.....	....	.....	1,000
	5											
1877	6	Do.	....	Do.	1 to 20	" "	1,000	.....	.....	....	.....	1,000
	7											
1878	8	Do.	....	Do.	"	" "	1,000	.....	.....	....	.....	1,000

Filed Dec. 14th, 1894. New Orleans, Febr'y 28th, 1894.
Copy of the assessment-rolls from the office of the tax-collector. Offered in evidence by plaintiffs. Filed Dec. 14th, 1894.
This is to certify that the above is a true copy of the assessment-rolls of record in this office, square No. 48, Hurstville, for the years stated.
(Signed) B. T. WALSHE, *State Tax-collector, 6th Dist., Parish of Orleans.*

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93 *Instructions to the Clerk of the Civil District Court for the Parish of Orleans Regarding the Documents Which Shall Constitute the Transcript of Appeal in This Case.*

R. M. DEL CASTILLO
v.
W. L. McCONNICO. } No. 42007. Civil District Court, Division E.

The clerk of the civil district court is hereby instructed to make a second transcript of appeal, containing the following documents of the record, to wit:

1. The petition.
2. The answer of defendant.
3. The judgment appealed from.
4. The motion of appeal.
5. The bond of appeal.
6. The exceptions of defendant.
7. The answer of W. H. Fitzpatrick and call in warranty.

94 8. The answer of H. C. Reese and call in warranty.

9. The exceptions of Lang.
10. The exceptions of Lang, called in warranty.
11. The answer of J. H. Lang to call in warranty by W. H. Fitzpatrick.
12. The answer of J. H. Lang to call in warranty by H. C. Reese.
13. Note of evidence for plaintiff.
14. Note of evidence for defendant & warrantors.
15. Testimony of J. Zach. Spearing.
16. Act of sale, Flint to Castillo.
17. Extract from advertisement.
18. Act of sale, W. H. Fitzpatrick to W. L. McConnico.
19. Act of sale, H. C. Reese to W. L. McConnico.
20. Act of sale, Lang to Fitzpatrick & Reese.
21. Act of sale, State of Louisiana to Orloff Lake.
22. Act of sale, Lake to Lallance.
23. Act of sale, Lallance to J. H. Lang.
24. Copy of advertisement.
25. Extract from the minutes of Apr. 16, '94, and June 11, '94.
26. Record No. 44386, offered in evidence by defendant & warrantors. Several documents (those numbered 21, 22, 23, 27, 28, 29, 30, & 31) comprising part of said record offered in this case are already transcribed. Do not transcribe these documents a second time.
27. Act of sale, R. Maria Del Castillo to O. Lake (using notarial blank).
28. Act of sale, sundry tax debtors to the State of Louisiana (using notarial blank).
29. Act of sale, sundry tax debtors to the State of Louisiana (using notarial blank).

30. Act of sale, sundry tax debtors to the State of Louisiana (using notarial blank).

31. Act of sale, sundry tax debtors to State of Louisiana (using notarial blank).

95 32. Copy of delinquent tax-list (using assessment blank).

33. Copy of assessment-roll (using assessment blank).

You are hereby instructed to use, if found correct, the bound transcript handed you by counsel for appellant of the above documents, with certificate that the same *us* a true copy of the documents & made in accordance with these instructions, the said transcript containing all the documents filed and required to be transcribed according to the rules of the supreme court, except redemption certificate offered but not filed by appellees.

Very respectfully,

JOHN WATT & KERNAN & WALL,
Att'ys for Appellant.

Certificate.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

I, Geo. W. Prados, d'y clerk of the civil district court for the parish of Orleans, do hereby certify that the foregoing ninety-six pages do contain a true, correct, and complete transcript of the proceedings had, documents filed, testimony and evidence adduced upon the trial of the cause wherein R. M. Del Castillo is plaintiff and W. L. McConnico is defendant, instituted in this court and now in the records thereof under the No. 42007, made in compliance with instructions of the plaintiff and appellant, same annexed to transcript.

In testimony whereof I have hereunto set my hand and affixed the impress of the seal of said court, at the city of New Orleans, on this 15th day of April, in the year of our Lord one thousand eight hundred and ninety-five, and in the one hundred and 19th year of the Independence of the United States of America.

GEO. W. PRADOS, *Clerk.*

96 *Motion and Order for Extension of Return Day. Entered and Filed March* 27, 1895

Supreme Court of the State of Louisiana.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO } No. —. Supreme Court.

On motion of John Watt and Kernan & Wall, attorneys for plaintiff and appellant, and on suggesting to the court that there has not been sufficient time to complete the transcript of appeal herein on account of the record being somewhat voluminous, and

that an extension of ten days for the completion of the transcript is necessary—

It is ordered that a delay of ten days from the filing hereof be granted for the completion of said transcript.

Affidavit.

Fergus Kernan, being by me duly sworn, says that he is the attorney of appellant, and that all the facts and allegations set forth in the foregoing motion are true and correct.

FERGUS KERNAN.

Sworn to and subscribed before me this 26th day of March, 1895.

ROB'T P. UPTON, *Not. Pub.*

I have no objection to urge to this application.
N. O., March 27, '95.

R. H. LEA,
Att'y for W. L. McConnico.

Motion for Further Extension of Return Day. Filed April 5, 1895, *and Entered April* 8, 1895.

RAFAEL M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. —. Supreme Court.

On motion of John Watt and Kernan & Wall, attorneys for plaintiff and appellant, and on suggesting to the court that the transcript of appeal herein is not yet completed on account of
97 want of sufficient time to complete the same, there being a redemption certificate from the State of Louisiana for the years 1881, 1882, & 1883 missing from the record, said document having been offered by one of the appellees and is missing from the record from no fault of appellant, that a delay of ten days is necessary to complete said transcript—

It is ordered that a delay of ten days be granted for the completion and filing of said transcript.

Affidavit.

Fergus Kernan, being by me duly sworn, says that he is the attorney for appellant, and that all the facts and allegations set forth in the foregoing motion are true and correct.

FERGUS KERNAN.

Sworn to and subscribed to before me this 5th day of April, A. D. 1895.

ROB'T P. UPTON, *Not. Pub.*

Rule to Rescind Orders Extending Return Day of Appeal. Entered and Filed April 13, 1895.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784. Supreme Court of Louisiana.

Upon motion of R. H. Lea, attorney for defendant herein and for W. H. Fitzpatrick, warrantor; of Clegg and Thorpe, attorneys for H. C. Reese, warrantor, and of J. Zach. Spearing, attorney for John H. Lang, warrantor, herein, and upon suggesting to the court—

That heretofore, to wit, on the 27th day of March, 1895, appellant herein applied for and obtained from this honorable court an order extending the time of filing the transcript of appeal herein for ten days from said date.

That upon the fifth day of April, 1896, said appellant presented to this honorable court another motion and application for a further delay of ten days in which to file said transcript of appeal, and the said additional delay was granted.

98 That said extension and delay herein last referred to should not have been granted, and that the order granting same should be set aside, avoided, and annul-ed, for the following reasons, to wit:

1st. That said order extending the time for filing said transcript for ten days from April 5th, 1895, was granted by this honorable court upon a motion and affidavit which was misleading to the court and which did not truly disclose the facts of the case, in this, that said motion and affidavit state that said transcript "is not yet completed on account of want of sufficient time to complete the same," "there being a redemption certificate from the State of Louisiana for the years 1881, 1882, and 1883 missing from the record," while in truth and in fact said transcript of appeal is not completed, because appellant had failed to give and has not yet given instructions to the clerk of the civil district court to prepare a proper transcript, nor is the absence of said certificate of redemption a cause of delay, because the same, though offered, was never produced and filed in the lower court, and its absence from said transcript, through no fault of appellant, could work appellant no harm, and for the further reason that appellant has never called upon appellees or any of them to produce same.

2nd. That, as shown by the sworn certificate of the clerk of the civil district court, hereto annexed as part of this motion, said appellant, previous to his said application for an extension of time on April 5th, 1895, had received a transcript of all the documents and papers in said record which said clerk had been ordered by said appellant to prepare.

3rd. That said certificate shows that counsel for appellant has in his possession and has so had continuously from April 4th, 1895, up to the present time, all the papers and documents in said record, and

that therefore the delay in preparing said transcript is directly attributable to said appellant.

It is ordered by the court that the appellant show cause on Saturday, the 13th day of April, A. D. 1895, at 11 a. m., why the
99 order heretofore granted herein, extending the time for filing the transcript of appeal herein for ten days from April 5th, 1895, should not be rescinded and set aside.

Affidavit of G. W. Prados, Deputy Clerk, Attached to Rule. Filed April 13, 1895.

Filed 13 April, 1895. T. McC. Hyman, clerk.

Supreme Court of La.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO, W. H. FITZPATRICK, Horace C. Reese, and John H. Lang, Called in Warranty.

No. 42007. Civil District Court, Parish of Orleans, Division "E."

I, Geo. W. Pardos, chief deputy clerk of the civil district court for the parish of Orleans, do hereby certify that on the 28th day of March, 1895, the following order to prepare the transcript of appeal in this cause was delivered to me by the attorneys for appellant, to wit:

R. M. DEL CASTILLO
vs.
W. L. MCCOMMICO.
No. 42007.

The clerk will please make a transcript of appeal comprising the following:

1. Petition.
2. Answer of defendant.
3. Judgment appealed from.
4. Motion of appeal.
5. Appeal bond.

& oblige, very respectfully,
(Signed) JOHN WATT &
KERNAN & WALL,
Att'ys for Plaintiff & Appellant.

100 I further certify that a transcript made of the documents named in said order was duly prepared in accordance with said order and certified to by me on the 3rd day of April, 1895, and was delivered to said attorneys.

I further certify that up to the hour of one o'clock p. m. on this day no further or additional instructions were given in regard to the preparation of said transcript of appeal.

I further certify that the record and documents in said cause in this court have been in the hands of the attorneys for plaintiffs and

appellant since April 4th, 1895, and now are, as appears from their motion and receipt therefor, on file in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, on this eleventh day of April, in the year of our Lord one thousand eight hundred and ninety-five.

GEO. W. PRADOS,
Deputy Clerk.

Geo. W. Prados, being duly sworn, deposes and says that the statements in the foregoing certificate are true and correct.

GEO. W. PRADOS.

Sworn to and subscribed before me this 11th day of April, 1895.

B. A. DUCOMG,
Deputy Clerk.

Affidavit of R. H. Lea, Attached to Rule. Filed April 13, 1895.

R. M. DEL CASTILLO
vs.
W. L. MCCOMMICO, W. H. FITZPATRICK, HORACE C. REESE, & JOHN H. LANG, Warrantors.

#11784. Supreme Court of Louisiana.

Richard H. Lea, being sworn, deposes and says that shortly after the order of appeal had issued herein he was approached as the attorney for W. L. McConnico, defendant and one of the appellees herein, by Mr. Fergus Kernan, who informed affiant of the fact of the appeal and suggested that as soon as he, Kernan, had had an opportunity to examine the record he would like to come to some understanding with affiant relative to the transcript of appeal, with the view of saving costs. Affiant told Mr. Kernan that he would be pleased to meet him, and that an agreement could probably be made. Nothing further was said at that time. Some days later affiant met Mr. Kernan on Carondelet street, and the matter of the transcript in this case was discussed. Mr. Kernan said that, as there were a number of tax title deeds in the record, he thought it would be well, in order to save costs, to copy one of them and refer to the others, detailing the particulars in which they differed one from the other. He also spoke of the shape in which the copies of the assessment-rolls should go up. Affiant suggested to him that a better plan to take the tax deeds up would be to get Mr. Spearing to let him have a printed form, if he had one; that the blanks could be filled in, and that in that shape, with an exact reproduction of the act before it, the court could more easily appreciate the position of the case. To this view Mr. Kernan assented. Affiant, however, informed him that this arrangement was subject to the approval of Messrs. Thorp and Spearing, who represented the warrantors of defendant. No mention was made of any of the other documents except as to the absence from the record of the certificate of redemption from the

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State. On March 27th Mr. Kernan called at affiant's office and stated that he intended asking for an extension of time in which to file his transcript, and requested affiant to consent and endorse his consent to same upon the application, he, Kernan, stating that if affiant gave consent there would be no difficulty in getting Messrs. Thorpe and Spearing to do so; whereupon affiant endorsed upon the application for an extension that he had no objection to urge to the application.

On Thursday evening, April 4th, Mr. Kernan brought to affiant the record in this case and a bound volume purporting to be copies of the documents in said record, made partially by the clerk of the court and partially by himself, as he informed affiant, and
102 requested affiant, after examination, to sign an agreement that that volume should constitute the transcript in this case. Affiant, upon taking the volume for the purpose of examination, remarked to Mr. Kernan that the portion of the record copied unofficially was much greater than he had alluded to and included many documents not mentioned in his conversation with affiant, and affiant again informed him that the consent of Messrs. Thorpe and Spearing was indispensable to any consent by affiant, even if the transcript as prepared by him was absolutely correct, as, their clients being the warrantors of affiant's client, affiant could do nothing that even might in any way affect their relative position. Whereupon an appointment was then made to call at the office of Mr. Spearing at 10 o'clock on Friday morning, April 5th, and with him to call on Mr. Thorpe in regard to the matter. On the morning of April 5th, in pursuance of said appointment, affiant, in company with Mr. Kernan, called at the office of Mr. Spearing, and, failing to find him, proceeded to the office of Mr. Thorpe and there with that gentleman discussed the whole subject-matter, when it was determined on the part of defendant and warrantors that they ought not to consent to the transcript going up in the shape in which appellant had prepared it.

New Orleans, April 13th, 1895. R. H. LEA.

Sworn to and subscribed before me this 13th day of April, 1895.
FERGUS KERNAN, *Not. Pub.*

Answer to Rule. *Filed April* 13, 1895.

R. M. CASTILLO
vs.
W. L. MCCONNICO. } No. —. Supreme Court.

Into court now comes R. M. Castillo, appellant herein, through undersigned counsel, and for answer or return to the motion or rule of appellees to rescind the order of Apr. 5th granting an extension of 10 days in which to complete and file the transcript
103 herein respectfully allege the facts and allegations set forth in the annexed affidavit as well as the facts and allegations set forth in the motion filed Apr. 5th as reasons well founded in law why the said motion to rescind should not be granted.

Affidavit of Fergus Kernan, Attached to Answer to Rule. Filed April 13, 1895.

R. M. CASTILLO *vs.* W. L. MCCONNICO. } No. —. Supreme Court.

Affidavit.

Fergus Kernan, one of the counsel for appellant, having been by me first duly sworn, says that it is alleged in the motion for an extension of time filed herein on Apr. 5th that there was want of sufficient time in which to complete and file the transcript; that only one reason out of several why there was not "sufficient time" is specifically stated in said motion, to wit, the failure of appellees to supply part of their documentary evidence; that there were other reasons existing at the time of filing the said motion for extension why there was not "sufficient time" for the completion of said transcript, which reasons are as follows, to wit: At the time the appeal was taken there was what counsel for appellant in good faith believed to be a verbal agreement between counsel for appellant and R. H. Lea, Esq., counsel for W. L. McConnico, appellee, that certain portions of the transcript should be transcribed privately and used on appeal with the same effect as if transcribed by and certified to by the clerk; that in pursuance of this understanding counsel for appellant withdrew the record from the lower court for the purpose of having transcribed and did have transcribed with all possible dispatch said portions of the record; that during the preparation of said transcript counsel for appellant (the return day having arrived) obtained an extension of ten days, which was not opposed by said counsel for appellee; that during the
104 said first extension and while said portions of the record were being transcribed privately counsel for appellant consulted with said counsel for appellee as to the best manner of incorporating certain of the documents in the transcript and received his approval as to a suggested manner of incorporating them; that counsel at the same time notified said counsel for appellee that certain portions of the documentary evidence offered by his side were missing from the record; that if he or the other counsel for appellees would supply said missing documents they would be transcribed in the transcript without any objection on the part of counsel for appellant; that said counsel for appellee promised to notify J. Zach. Spearing, Esq., counsel for J. H. Lang, warrantor, another appellee, to supply said missing documents for incorporation in the transcript; that said missing documents have not been supplied by appellees up to the time of applying for the second extension on Apr. 5th and were at that time missing from the record, from no fault of appellant; that on Apr. 5th counsel for appellant presented the transcript all complete (except that the said missing documents were not transcribed therein, and except also that the clerk had not

certified to the portions transcribed privately), together with the agreement reduced to writing, which counsel for appellant understood in good faith existed in a verbal form; that then said counsel for appellee stated that he could not act independently of Messrs. Clegg & Thorpe & J. Zach. Spearing, counsel for warrantors, the other appellees; that said agreement was then presented to Mr. Thorpe, who refused to sign it; that counsel for appellant then learned for the first time that the agreement as he understood existed and had acted on in good faith could not be made; that the first extension expired on the following day, Saturday, Apr. 6th; that there was not sufficient time to obtain the missing documents, have them transcribed, and also have the clerk certify and verify as correct the portions of the transcript that had been transcribed privately; that accordingly appellant's counsel applied for the extension of Apr. 5th, specifying as the general ground of the motion
that there was "want of sufficient time" to complete the
105 transcript, mentioning specifically only one reason of the
many above set forth; that affiant does not charge appellees' counsel with breach of faith, but does charge that the conduct of appellee's counsel misled him and took him by surprise.

Affiant further deposes (in explanation of why instructions have not been issued to the clerk) that after the granting of the second extension, to wit, on Apr. 7th, he requested Mr. Thorpe, of Messrs. Clegg & Thorpe, to reconsider his refusal to sign the agreement; that he did so far reconsider his refusal as to write his client, at Houston, Texas, for his wishes in the matter; that affiant was notified definitely and finally on Thursday, Apr. 10th, in the afternoon, after the closing of the clerk's office, that the client had been heard from, and that no technical advantage would be waived; that the following day, Friday, Apr. 12th, was a *dies non;* that therefore it has been physically impossible to give the clerk the necessary instructions, but that no right of either appellees or appellant has been lost thereby, because the transcript has been completed and is ready for filing with the exceptions above set forth and can be certified by the clerk, as required by law, and filed before the present extension expires if the necessary missing documents to be supplied by appellees shall have been supplied.

FERGUS KERNAN.

Sworn to and subscribed to before me this 13th day of April, A. D. 1895.

ROB'T P. UPTON, *Not. Pub.*

Rule to Rescind Order Granting Delay to File Transcript of Appeal.

(Extract from minutes.)

NEW ORLEANS, SATURDAY, *April* 13, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Francis T. Nicholls, chief justice; Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices.

R. M. DEL CASTILLO
v.
106 W. L. McCONNICO, W. H. FITZPATRICK, HORACE C. REESE, and JOHN H. LANG, Warrantors. } No. 11784.

The rule herein taken on the appellant to show cause why the order granted in this cause extending the time for filing the transcript of appeal herein for ten days from the 5th day of April, A. D. 1895, should not be rescinded and set aside came on this day to be heard—present, Richard H. Lea, Thomas H. Thorpe, and J. Zach. Spearing, for plaintiff in rule; Fergus Kernan, for defendant in rule—and the rule having been submitted to the court upon the papers on file, the court took time to consider.

Transcript of appeal. Filed 15 April, 1895.
(Signed) T. McC. HYMAN, *Clerk.*

Opinion of the Court. Filed April 13, 1895.

UNITED STATES OF AMERICA,
State of Louisiana.

Supreme Court of the State of Louisiana.

NEW ORLEANS, MONDAY, *April* 22, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Francis T. Nicholls, chief justice; Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices.

His honor the chief justice pronounced the opinion and judgment of the court in the following case:

R. M. DEL CASTILLO
vs.
W. L. McCONNICO *et al.* } No. 11784.

107 Appeal from the civil district court for the parish of Orleans.

On rule upon plaintiff to show cause why the order of the supreme court extending the time for filing the transcript of appeal for ten days from April 5th, 1895, should not be rescinded.

On the 27th March, 1895, plaintiff and appellant applied for and obtained from this court an order extending the time for filing the transcript of appeal for ten days from that date. On the 5th of April he was granted an additional delay of ten days on a second application.

The parties to the suit are the plaintiff, the defendant, and several warrantors.

The defendant and warrantors united in an application to the court to have the second order rescinded and set aside as having

been granted upon a motion which was misleading and did not truly disclose the facts of the case.

They aver that in said motion it was stated that said transcript was "not yet completed on account of want of sufficient time to complete the same," there "being a redemption certificate from the State of Louisiana for the years 1881, 1882, and 1883 missing from the record," while in truth and in fact said transcript of appeal was not completed, because appellant had failed to give and had not yet given instructions to the clerk of the civil district court to prepare a proper transcript.

That the absence of said certificates of redemption was not a cause of delay, because the same, though offered, was never produced and filed in the lower court, and its absence from the transcript through no fault of appellant could work him no harm, and for the further reason that he had not called upon appellees or any of them to file the same. They annexed to their application a certificate of the clerk of the civil district court to the effect that prior to appellant's second application for an extension he, the appellant, had received a transcript of all the documents and papers in the record, and therefore it is claimed the delay in preparing the transcript was directly attributable to appellant.

108 Annexed to the motion for the rule asked for is a deposition of the attorney for the defendant, stating the situation of affairs from his standpoint as it existed at the time of each application for extension.

The attorney for the plaintiff answered, and annexed to his answer a deposition made by him as to the facts as he understood them.

It appears that after plaintiff had taken an appeal several interviews took place between his attorney and that of defendant with a view of lessening the costs of appeal through the character of the transcript to be made out, it being suggested that as there were a number of tax-title deeds in the record a single one might be copied and the others referred to, simply detailing the particulars of each.

A number of other suggestions were made and an agreement as to what should be done was reached.

Defendant's attorney says he informed opposite counsel that the arrangement made was subject to the approval of the attorney of the warrantor, and that he assented to this. Some time after this plaintiff's counsel informed that of defendant that he intended to file an application for an extension of time and requested him to consent thereto. This consent was given in writing. Defendant's attorney, Mr. Lea, says that when this request was made of him Mr. Kernan (plaintiff's attorney) told him that if he, Lea, consented he would have no trouble in obtaining the approval of Messrs. Clegg & Thorpe, attorneys of the warrantors, and upon this statement he consented.

Subsequently to this Messrs. Kernan and Lea met, the former having with him a book containing copies made out unofficially of various documents from the record, and a discussion took place as to whether what had been done was satisfactory or not. Mr. Lea

informed Mr. Kernan that it was indispensable that the consent of the attorneys of the warrantors should be given to whatever was agreed upon. Thereupon they proceeded to have an interview with these attorneys. The interview terminated with a refusal on
109 their part to consent to the transcript as made out by Mr. Kernan. This interview was on the 5th of April.

On the day after this refusal was given Mr. Kernan made his second application for extension, which was given.

Mr. Kernan states in his affidavit that this application was made by reason of the refusal above stated, and the fact that there was then too little time to have the transcript made out officially, as required by law, by the clerk for filing within the time fixed by the first extension. He says he was under a misapprehension as to the attorneys of the warrantor.

It is obvious that there was a misunderstanding between the attorneys as to the transcript. The appellant is not a defendant, but a plaintiff, and, we have every reason to believe, desired to perfect his appeal. We know of no reason or motive on his part to fight for time. We think he acted in perfect good faith in the matter, even though he may have acted under a misapprehension. The effect of our rescinding the order granted would doubtless lead to the loss of plaintiff's appeal, which we would be very reluctant to have brought about, unless on very clear grounds. The clerk of this court informs us the transcript in this case has been filed.

We do not think the facts call for a re-cission of the order.

It is ordered that the rule taken be discharged at mover's costs.

Judgment on Rule to Rescind.

(Extract from the minutes.)

NEW ORLEANS, MONDAY, *April* 22, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Francis T. Nicholls, chief justice; Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices.

His honor the chief justice pronounced the opinion and judgment of the court in the following case:

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO *et al.* } No. 11784.

(On rule to rescind the order extending the time for filing the transcript of appeal for ten days from April 5th, 1895.)

110 It is ordered that the rule taken be discharged at mover's cost.

Order Directing Filing of Motion for Certiorari.

(Extract from the minutes.)

NEW ORLEANS, MONDAY, *April* 22, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Francis T. Nicholls, chief justice: Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784.

On motion of John Watt and Kernan & Wall, attorneys for appellant, and on suggesting to the court that the transcript of appeal in this case is defective in the particulars specified in the written motion presented on the 17th day of April instant, it was ordered by the court that the said motion for certiorari be filed without prejudice.

Motion and Order for Writ of Certiorari. Filed April 22, 1895, *and Entered April* 27, 1895.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784. Supreme Court of Louisiana.

On motion of John Watt, Kernan & Wall, attorneys for appellant, and on suggesting to the court that the transcript filed herein is incomplete and deficient in this, to wit, part of the documentary evidence offered by appellees on the trial in the lower court, to wit, redemption certificates from the State of Louisiana for the years 1881, 1882, and 1883 (see Transcript, page —), are not transcribed in the said transcript; that said documents are material and important for a proper decision of this cause;

On further suggesting that said incompleteness and deficiency in the transcript is not due to any fault of appellant, the said document having been filed by appellees (as admitted in their
111 motion to rescind order granting extension); that, notwithstanding the fact that appellees have not filed said documents, nevertheless they were offered in evidence, used by the trial judge presumably, and form part of the evidence on which the judgment appealed from was rendered, — are absolutely necessary for this court to have before them in order to afford a full and fair review of said judgment;

On further suggesting that the admitted failure of appellees to file said documents, thereby suppressing important evidence, affords proof, as a conclusive presumption of law, that said documents contain evidence unfavorable to their side of this controversy;

On further suggesting that appellant believes and therefore charges

that it is in the power of the clerk of the lower court to procure said documents or copies thereof:

It is ordered that an order in the form of a certiorari issue to the clerk of the civil district court for the parish of Orleans, ordering him to procure, transcribe, and transmit to this court, on or before Monday, April 22nd, 1895, the originals or certified copies of the documents above described, and that he make his return hereto in accordance with the law and the facts.

FERGUS KERNAN,
Att'y for Appellant.

Sworn and subscribed before me this 17th day of April, 1895.
P. ALPH. RABOUIN, *Not. Pub.*

Agreement Between Counsel Regarding Assignment of Case for Trial.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. —. Supreme Court.

It is hereby agreed that this case shall not be fixed for trial during the week beginning May 20th, 1885, but the clerk of the court is requested to fix the same at the subsequent fixing of cases, because Mr. Spearing, att'y for defendant, will be absent from
112 the city during the week beginning May 20th, 1895.

New Orleans, April 25th, 1895.

JOHN WATT &
KERNAN — WALL,
Att'ys for Appellant.
R. H. LEA,
Att'y for Def'd't.
J. ZACH. SPEARING,
Att'y for J. H. Lang.
CLEGG & THORPE,
Att'ys for H. C. Reese.

Return of Clerk to Writ of Certiorari. Filed May 10, 1895.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784. Supreme Court of Louisiana.

Now comes A. V. Flotte, clerk of the civil district court for the parish of Orleans, and makes return of the writ of certiorari served upon him herein, commanding him, said Flotte, as clerk aforesaid, to procure, transcribe, and transmit to the honorable the supreme court of Louisiana a certain "redemption certificate from the State of Louisiana for the years 1881, 1882, and 1883," offered by appellees on the trial in the lower court, as follows, to wit:

First. That the transcript of appeal certified herein contained all

the evidence adduced and copies of all the documents filed upon the trial hereof and conformed strictly to the written instructions of appellant, said instructions being embodied in original in said transcript.

Second. That the redemption certificate or a copy thereof in said writ ordered to be transcribed and transmitted to the honorable the supreme court was not filed in the civil district court on the trial of this cause and constituted no part of the record herein at the time this appeal was taken and the transcript herein was made, and, not being in this record at that time, could not be included in said transcript, and that this respondent is entirely free from fault in the premises.

113 Third. That since the service of said writ appellees have procured and caused to be filed herein, *nunc pro tunc*, as of date of the submission of this cause in the civil district court, a certified copy of the registry of said redemption certificate in the conveyance office of this parish, together with an affidavit showing the loss of the original certificate, which said copy and affidavit, together with the endorsements thereon, respondent has caused to be transcribed, and he herewith transmits the same in obedience to said writ and as part of this return.

Your appearer therefore prays to be exhonerated from all responsibility in the premises, and for all other relief which your honors may deem meet and proper.

Respectfully submitted.

A. V. FLOTTE, *Clerk.*

Copy of Certificate of Redemption Attached to and Filed with Return of Clerk to Writ of Certiorari.

Conveyance office, parish of Orleans; Joseph Hirn, register.

STATE OF LOUISIANA, AUDITOR'S OFFICE.

Certificate of redemption of land sold for taxes and bid in for the State.

I hereby certify that John H. Lang has this day paid into the State treasury the sum of $40.44, being the full amount of taxes, interests, costs, and penalties due for the years 1880, 1881, 1882, 1883 on the following-described property, assessed to R. Castillo, which was returned on the tax-collector's list of lands sold the State from the parish of Orleans filed in the auditor's office:

Square No. 48, Hurstville; bounded by Prytania, Pitt, Elinor, and Nashville avenue, measuring 240′ front by a depth of 300′.

114 And in consequence of the payment of said taxes, interests, costs, penalties, I do hereby certify that the above-described property is redeemed to R. Castillo, against whom or which property said taxes were assessed provided for by section 53 of act No. 85 of 1888.

And the said John H. Lang having redeemed the said above-described property by paying all the taxes, interest, costs, and penalties aforesaid, he, the said John H. Lang, as payor, is legally subrogated to all rights, liens, and mortgages of the State incident to and growing out of said taxes for the years 1880, 1881, 1882, 1883, and its record in the offices required by law, without prejudice to any privileges or mortgages of the State, parish, or municipal corporations for other taxes.

Given under my hand and seal of office this the 12th day of August, A. D. 1891.

(Signed) O. B. STEELE, *Auditor.*
W. T. PATTON, *Tax-col.,*
P'r FITZGERALD, *D'y Col.*

Registered August 19, 1891.
(Signed) A. J. VILLERE, *Register.*

I, the undersigned, register of conveyances in and for the parish of Orleans, State of Louisiana, do hereby certify that the above and foregoing is a true and correct copy of the inscription made in this office on August 19, 1891, in Book 139, folio 215.

New Orleans, May 2, 1895.

JOSEPH HIRN,
Register of Conveyances.

NEW ORLEANS, *May* 7, '95.

We agree that this shall be used in lieu of the original document, and that the same may be transmitted to the supreme court by the clerk of the civ. dist. court as part of his return to the writ of certiorari, and that same may be used on appeal in lieu of original.

JNO. WATT,
KERNAN & WALL,
For Appellant.

Affidavit of J. Zach. Spearing, Attached to and Filed with Return of Clerk to Writ of Certiorari.

115 STATE OF LOUISIANA, }
Parish of Orleans. }

Before me, the undersigned authority, personally came and appeared Mr. J. Zach. Spearing, who, being duly sworn, deposes and says that he was a member of the late firm of Jos. H. and J. Zach. Spearing, attorneys-at-law, and affiant is the successor of said firm, practicing in this city; that said firm represented John H. Lang, as his attorneys, during the month of August, 1891; that as such attorneys the said firm, on or about the 12th day of August, 1891, paid the State taxes for the years 1880, 1881, 1882, and 1883 and other years on the following-described property, to wit:

A certain square of ground in the Sixth district of the city of New Orleans, designated by the number 48 of Hurstville, bounded by Prytania, Pitt, and Elenor streets and Nashville avenue; that upon

the payment of said taxes the said firm obtained from the State tax-collector and State auditor for said Lang a certificate of the redemption of said above-described square of ground from the sales thereof made to the State of Louisiana for the taxes due thereon for the said years 1880, 1881, 1882, and 1883, and caused the same to be registered in the conveyance office of this parish; that at the trial of the case entitled R. M. Del Castillo *vs.* W. L. McConnico, in division "E" of the civil district court, affiant, as the counsel for said Lang, one of the warrantors in said case, offered the said redemption certificate in evidence "to be produced;" that since the said offer of said certificate affiant has frequently made diligent search for the same, but without success; that said certificate is now lost or mislaid and cannot be produced.

J. ZACH. SPEARING.

Sworn to and subscribed before me this 7th day of May, 1895, at New Orleans, La.

CHAS. B. UPTON, *Not. Pub.*

We agree that this affidavit may be attached to the return of the clerk on the writ of certiorari as part of said return.

JNO. WATT,
KERNAN & WALL,
For Appellant.

N. O., May 7, '95.

116 *Continuance.*

(Extract from the minutes.)

NEW ORLEANS, TUESDAY, *June* 4, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices. Absent: Francis T. Nicholls, chief justice.

R. M. DEL CASTILLO
v.
W. L. MCCONNICO. } No. 11784.

This cause came on this day to be heard and was argued by counsel. Mr. Isaac D. Wall opened for the plaintiff and appellant, followed by Mr. Richard H. Lea on behalf of the defendant and appellee; and the usual hour for the adjournment of the court having arrived, the court ordered the cause to be continued until tomorrow, Wednesday, the 5th instant, at 11 o'clock a. m., for further argument.

Plea of Res Adjudicata. Filed June 5, 1895.

R. M. DEL CASTILLO
v.
W. L. MCCONNICO. } No. 11784. Supreme Court.

And now comes John H. Lang, one of the warrantors in this case, and, in addition to the pleas and defences made in the lower court, now especially pleads the judgment in his favor and against W. H. Fitzpatrick and M. Kaufman rendered by the civil district court of the parish of Orleans in the suit entitled J. H. Lang *vs.* Kaufman *et al.*, No. 34386 of the docket of said court, as *res adjudicata*, against said Fitzpatrick and against H. C. Reese, the transferee of said M. Kaufman.

Whereupon respondent prays that he be hence dismissed at the costs of plaintiffs in warranty and for all general relief.

J. ZACH. SPEARING,
Att'y for J. H. Lang.

Cause Submitted.

(Extract from the minutes.)

NEW ORLEANS, WEDNESDAY, *June* 5, 1895.

117 The court was duly opened pursuant to adjournment.
Present: Their honors Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices. Absent: Francis T. Nicholls, chief justice.

R. M. DEL CASTILLO
v.
W. L. MCCONNICO. } No. 11784.

This cause, continued from yesterday, Tuesday, the 4th day of June, A. D. 1895, came on this day further to be heard and was argued by counsel. Mr. Richard H. Lea resumed his argument, interrupted by the adjournment of the court last evening, on behalf of the defendant and appellee, and Mr. Wall closed the argument; and the cause having been submitted upon the briefs and papers now on file, the court took time to consider.

Opinion of the Court. Filed June 17, 1895.

UNITED STATES OF AMERICA,
State of Louisiana.

Supreme Court of the State of Louisiana.

NEW ORLEANS, MONDAY, *June* 17*th*, 1895.

The court was duly opened pursuant to adjournment.
Present: Their honors Lynn B. Watkins, Samuel D. McEnery,

Joseph A. Breaux, Henry C. Miller, associate justices. Absent: Francis T. Nicholls, chief justice.

His honor Mr. Justice Miller pronounced the opinion and judgment of the court in the following case:

RAFAEL MARIA DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784.

Appeal from the civil district court for the parish of Orleans.

The plaintiff brings this petitory action to recover a square
118 of ground in the 6th district of this city acquired by him in 1851. The defendant and his warrantors claim under an adjudication for payment of State taxes accrued prior to 1879, made to Orloff Lake in 1885, and based on the act of the legislature No. 82 of 1884, directing sales for taxes. The defences to plaintiff's suit are the exceptions of no cause of action, prescription of two, three, and five years, of *res judicata* based on a judgment of the district court condemning one of the warrantors to accept the tax title; the defence is also urged that the property was subsequently to the tax sale adjudicated to the State for the taxes of 1880 to 1882, assessed in the name of R. Castillo, and, finally, the defence relies on the tax sale of 1885, under act No. 82 of 1884, as vesting complete title in Lake and those claiming under him. From the judgment of the lower court, in favor of the defendant, this appeal is prosecuted by plaintiff.

It appears that from 1876 to 1878 the property was assessed as that of R. Castillo; that the property was never forfeited or adjudicated to the State for these taxes, the only adjudication to the State for the taxes of 1880 to 1883 being assessed to R. Costello; the adjudication to Lake in 1885 under act of 1884 was followed by the deed authorized by that act, and it further appears that one of Lake's vendees has paid all the taxes accrued since 1879, manifestly intended to complete the tax title.

The vigorous argument in this court on behalf of the plaintiff mainly rests on his contention that the act No. 82 of 1884 must be restricted to the sale of property forfeited to the State or to which the State had a title at the date of the constitution of 1879, it being conceded in this case there was no such forfeiture or title. The provision in the constitution of 1879 for the relief of delinquent taxpayers might well as of first impression suggest its applicability only to sales of property forfeited to the State or belonging to it when the constitution was adopted. This impression, in our view, must yield to a more careful reading of the instrument. In the last portions of the ordinance there is, in our view, a distinct
119 reference to the property on which taxes are due, levied prior to 1879, followed by the direction that all such property shall be sold in the manner to be provided by law. Such property embraces not only that forfeited or belonging to the State, mentioned in the beginning of the ordinance (the fifth line), but also property

on which taxes were due prior to 1879 and not redeemed within the period given by the ordinance. Indeed, the interpretation we announce cannot be deemed open. In the matter of Orlof- Lake, 40th Ann., 142; *In re* Douglas, 41st Ann., 765, and other decisions of this court.

The acts No. 107 of 1880, 98 of 1882, and No. 84 of 1884 followed this ordinance. The first two acts were deemed not sufficiently comprehensive, but in the last act the sale of all property was authorized on which taxes were due the State prior to 1879, as well as property forfeited. See the act, S. 1, 3rd. Under the act the sale was to be made after advertisement, giving the name of the party in whose name the property was assessed or the name of the present owner. The deed under the act was to be conclusive evidence, among other things, that the property was assessed according to law. S. 3rd. Under this act and deed issued under it the defendant holds title. It is urged on behalf of plaintiff that the property was not properly assessed for the taxes prior to 1879, because the assessment was in the name of R. Castillo instead of Rafael Maria Del Castillo. We are relieved of the necessity of passing on the question of the sufficiency of this assessment. The act of 1884 makes the deed conclusive of the sufficiency of the assessment of the property sold under it. The question of the competency of this legislation in this respect has been before this court on repeated occasions. The argument now addressed to us against the constitutionality and interpretation of the act must be viewed as directed against a series of decisions of this court. To those decisions we must adhere and hold the act precludes the enquiry. In the matter of Orloff Lake, 40th Ann., 142; *In re* Douglas, 41st Ann., 765; Breaux *vs.* Negrotto, Jr., 43rd Ann., 430 *et seq.*

It is urged on us that the property not forfeited to the State prior to 1879 could not be sold without the notice specified in article 210 of the constitution. That article applies manifestly to sales for taxes levied since 1879. Sales of property for taxes prior to 1879 are governed by the ordinance for the relief of delinquent tax-payers and by the act of 1884 prescribing newspaper notice. In this case the advertisement gave the full name of plaintiff, adding her estate or heirs, and in our view the advertisement conformed to the requirement of the act.

In all aspects of the case we think the defendant's title is protected by a line of decisions that no court should deem itself at liberty to overthrow, especially as they are based on that provision of our organic law dealing with the subject of long-deferred taxes left still unpaid after the liberal grace extended the owners by the ordinance.

It is therefore ordered, adjudged, and decreed that the judgment of the lower court be affirmed with costs.

Final Judgment.

(Extract from the minutes.)

NEW ORLEANS, MONDAY, *June* 17, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices. Absent: Francis T. Nicholls, chief justice.

His honor Mr. Justice Miller pronounced the opinion and judgment of the court in the following case:

RAFAEL MARIA DEL CASTILLO
v.
W. L. MCCONNICO. } No. 11784.

On appeal from the civil district court for the parish of Orleans.

It is ordered, adjudged, and decreed that the judgment of the lower court be affirmed with costs.

Petition for Rehearing. Filed June 22, 1895.

Supreme Court of Louisiana.

121 RAFAEL MARIA DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784.

The petition of Rafael Maria Del Castillo, plaintiffs and appellant herein, for a rehearing respectfully represents—

That the decision of this court affirming the decision of the lower court so construes act No. 82 of the session for the year 1884 of the General Assembly of this State as to make said act violative of the fifth amendment of the Constitution of the United States in the following particulars:

First. Said act purports to make the deed of the tax-collector for the sale of property made under its provisions conclusive evidence that the assessment was made according to law; that the assessment stands in lieu of a judgment; that the assessments for which petitioner's property was sold in this case were absolutely null and void; that to make the tax-collector's deed conclusive evidence of the correctness of the assessments is tantamount to validating a judicial sale without a judgment or its equivalent and would deprive petitioner of his property without due process of law, contrary to the provision of the Constitution of the United States above referred to.

Second. Said act No. 82 of 1884 provides that the said tax-collector's deed shall be conclusive evidence that property sold under its provisions was advertised according to law, whereas in fact the advertisement under which petitioner's property was sold contains

all the vices, defects, and misdescriptions found in the assessments, and is therefore radically defective, invalid, null, and void; that such provision of said act No. 82 of 1884, applied to the acts of the tax-collector in making the sale of petitioner's property complained of in his original petition, would shut him off from the opportunity of being heard, would permit the sale of his property without any previous advertisement, as required by law, and as such a
122 proceeding, culminating in the sale complained of, was a deprivation of petitioner's property without due process of law.

Third. That said act No. 82 of 1884 also provides that the tax-collector's deed of all property sold by virtue of its provisions shall be conclusive evidence that the owner whose property was divested was notified according to law of the intended sale of his property for taxes; that in fact no notice of any kind was given petitioner of the intended sale of his property complained of in this suit; that the said provision of said act 82 of 1884 validates a sale for taxes made without any notice to the owner at all; that thereby the owner is deprived of his property without any opportunity of being heard—without any citation, summons, or other process in the nature of a summons—in other words, without due process of law; that the said provision of said act 82 of 1884 is repugnant to and violative of the said fifth amendment to the Constitution of the United States, which provides that no one shall be deprived of life, liberty, or property without due process of law.

Fourth. That said act No. 82 of 1884 also provides for the sale of property belonging to the citizen and also for the sale of property of the State, embraces more than one object, is repugnant to art. 29 of the State constitution, is invalid, null, and void, and to sustain a pretended sale under it of plaintiff's property would deprive him of it without any process of law, in violation of the said fifth amendment of the Constitution of the United States.

That the decision of this court is in favor of the validity of said act 82 of 1884 on all its provisions above set forth, which petitioner hereby charges are repugnant to and in conflict with said fifth amendment of the Constitution of the United States.

That the ordinance for the relief of delinquent tax-payers of the constitution of 1879, if its object be to enable the legislature to provide a mode of disposing of the citizen's property delinquent for taxes by an unimpeachable title, in a manner contrary to the provisions of the statutes under which the delinquent taxes were assessed, is repugnant to the said fifth amendment of the Constitution of the United States, and that the decision of your honors in
123 this cause is in favor of the validity of the said ordinance.

Wherefore petitioner prays this honorable court that it will be pleased to grant a rehearing of this cause.

JNO. WATT,
KERNAN & WALL, *Att'ys.*

Rehearing Refused.

(Extract from the minutes.)

NEW ORLEANS, THURSDAY, *June* 27, 1895.

The court was duly opened pursuant to adjournment.

Present: Their honors Lynn B. Watkins, Samuel D. McEnery, Joseph A. Breaux, Henry C. Miller, associate justices. Absent: Francis T. Nicholls, chief justice.

By the court:

R. M. DEL CASTILLO
v.
W. L. MCCONNICO. } No. 11784.

It is ordered that the rehearing applied for in this case be refused.

Petition for Writ of Error and Order. Filed June 29, 1895.

Supreme Court of Louisiana.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. —.

The petition of plaintiff and appellant herein respectfully represents—

That in this cause there is drawn in question the validity of a statute and an authority exercised under this State on the ground of its being repugnant to the Constitution of the United States, and that the decision of this court, being the highest court of law
124 or equity of this State, is in favor of its validity; also that there is drawn in question the construction of a clause of the Constitution of the United States, and the decision of this court is against the right specially claimed under such clause of the Constitution.

Wherefore petitioner prays that this court may be pleased to grant him a writ of error, with supersedeas, to the Supreme Court of the United States on his executing a bond in such sum as the court may fix, returnable to said court, at Washington, on the — of ——, according to law.

JOHN WATT &
KERNAN & WALL, *Att'ys.*

Order.

Let a writ of error issue as herein prayed for, returnable according to law, upon the plaintiff in error furnishing bond conditioned according to law, if without supersedeas, in the sum of not less than

five hundred dollars, and if with supersedeas in the sum of not less than five thousand dollars.

Done and signed officially in chambers this 29th of June, 1895, at New Orleans, La.

L. B. WATKINS,
Presiding Justice.

Petition for Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the supreme court of Louisiana, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said suit, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Rafael Maria Del Castillo, as plaintiff and appellant, and Walter L. McConnico, as defendant and appellee; also John H. Lang, Horace C.
125 Reese, and William H. Fitzpatrick, warrantors and also appellees, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity, or wherein was drawn in question the construction of a clause of the Constitution or of a treaty or statute of or commission held under the United States and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Rafael Maria Del Castillo, plaintiff and appellant, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington within 30 days from date hereof, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, the 1st day of July, in the year of our Lord one thousand eight hundred and ninety-five.

E. R. HUNT,
Clerk of the Circuit Court of the United States for the Eastern District of Louisiana.

Allowed by—
L. B. WATKINS,
Presiding Justice of the Supreme Court of Louisiana.

126 Endorsed: No. 11784. R. M. Del Castillo, plaintiff in error, *versus* W. L. McConnico, defendant in error. Writ of error.

Copy of a writ of error lodged in the clerk's office of the supreme court of the State of Louisiana, *copy* in pursuance of the statute in such cases made and provided, this first day of July, one thousand eight hundred and ninety-five.

JNO. WATT AND
KERNAN & WALL,
Attorney- of Plaintiff in Error.

Filed 1 July, 1895.

T. McC. HYMAN, *Clerk.*

Bond for Writ of Error. Filed July 1, 1895.

Know all men by these presents that we, Rafael Maria Del Castillo, as principal, and John Watt, as sure*ties*, are held and firmly bound unto Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick in the full and just sum of five hundred dollars, $500.00, to be paid to the said Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick, certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 1st day of July, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas lately, at a hearing and decision in the supreme court of Louisiana, in a suit depending in said court between Rafael Maria Del Castillo, as plaintiff and appellant, and Walter L. McConnico, defendant, appellee, and John H. Lang, Horace C. Reese, and William H. Fitzpatrick, warrantors, also appellees, a judg-
127 ment was rendered against the said Rafael Maria Del Castillo, and the said Rafael Maria Del Castillo having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick, citing and admonishing them to be and appear before the United States Supreme Court to be holden at Washington within 30 days from the date thereof:

Now, the condition of the above obligation is such that if the said Rafael Maria Del Castillo shall prosecute his appeal to effect and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

RAFAEL MARIA DEL CASTILLO, [SEAL.]
Per JNO. WATT, *Att'y.* [SEAL.]
JNO. WATT. [SEAL.]

Sealed and delivered in presence of—
H. J. CARTER.

Approved by—
L. B. WATKINS,
Presiding Justice of the Supreme Court of Louisiana.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, } ss:

Personally appeared John Watt, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, Louisiana, and is worth the full sum of five hundred dollars over and above all his debts and liabilities and property exempt from execution.

JNO. WATT.

Subscribed and sworn before me this 1st day of July, 1895.

H. J. CARTER,
U. S. Commissioner.

128 Endorsed: No. 11784. Supreme court of La. R. M. Del Castillo, plaintiff in error, *vs.* W. L. McConnico, defendant in error. Bond. Filed July 1, 1895. T. McC. Hyman, clerk.

Assignment of Errors. Filed July 5, 1895.

In the Supreme Court of Louisiana.

RAFAEL MARIA DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784.

Assignment of errors.

Now into court — Rafael Maria Del Castillo, plaintiff and plaintiff in error, by Jno. Watt and Kernan & Wall, his attorneys, and says—

That in the record, proceedings, and decree in the above-entitled matter there is manifest error, in this, to wit:

1. That the court erred in maintaining the constitutionality of that part of sec. 3 of act No. 82 of 1884 of the General Assembly of Louisiana which makes the tax-collector's deed under that act conclusive evidence of a valid assessment of the property sold under that act; that the assessment stands in lieu of a judgment; that the assessments for which petitioner's property was sold in this case were alleged to be absolutely null and void; that making the tax-collector's deed conclusive evidence of the correctness of the assessments is tantamount to validating a judicial sale without a judgment or its equivalent and would deprive said Rafael Maria Del Castillo of his property without giving him an opportunity to be heard, without due process of law, contrary to the fifth and
129 fourteenth amendments to the Constitution of the United States.

2. That the court erred in maintaining the constitutionality of that part of sec. 3 of said act 82 of 1884 which makes the tax-collector's deed under said act conclusive evidence that the property sold under its provisions was advertised, according to law, and that all the prerequisites to a valid sale by the tax-collector, from the

assessment up to and including the registry of the deed in the conveyance office, were observed; that such provision of act No. 82 of 1884 applied to the acts of the tax-collector in making the sale of said Rafael Maria Del Castillo's property complained of in his original petition would shut him off from the opportunity of being heard, would permit the sale of his property without any previous advertisement as required by law, and such a proceeding culminating in the sale complained of in the original petition was a deprivation of said Rafael Maria Del Castillo's property without due process of law.

3. That the court erred in maintaining the constitutionality of that part of sec. 3 of said act 82 of 1884 which makes the tax-collector's deed conclusive evidence that the owner divested was notified, according to law, of the intended sale of his property for taxes; that in fact no notice of any kind was given or pretended to have been given to said Rafael Maria Del Castillo of the intended sale of his property complained of in this suit; that the said provision of said act 82 of 1884 validates a sale for taxes made without any notice to the owner at all; that thereby the owner is deprived of his property without any opportunity of being heard, without any summons or other process in the nature of a summons—in other words, without due process of law.

4. That the court erred in maintaining the constitutionality of said act 82 of 1884, because said act is manifestly unconstitutional, null, void, and of no effect, in that it provides for the sale of property belonging to the State of Louisiana, and also of property
130 belonging to the citizen in the enforced collection of taxes, embraces more than one object, is violative of art. 29 of the State constitution, and to sustain a pretended sale of said Rafael Maria Del Castillo's property under said act would deprive him of it without due process of law.

5. That the court erred in maintaining the constitutionality of said act 82 of 1884, because said act pretends to provide for the sale of the citizen's property simply delinquent for taxes for what it will bring to the highest bidder, and that the whole amount realized at such sale, although it may be greatly in excess of the taxes, interest, penalties, and costs due, shall be paid into the State treasury without any right in the delinquent tax-payer to claim said surplus; that to sustain the constitutionality of such act would be tantamount to providing for the taking of private property for public use without just compensation.

6. That the court erred in maintaining the constitutionality and validity of the ordinance for the relief of delinquent tax-payers of the constitution of the State of Louisiana, if its object be to enable the legislature to provide a mode of disposing of the citizen's property delinquent for taxes by an unimpeachable title, in a manner contrary to the provisions of the statutes under which the delinquent taxes were assessed; that such legislation would shut the delinquent tax-payer off from being heard and would deprive him of his property without due process of law, and to place such a construction on the said ordinance of the said constitution and main-

tain its constitutionality would deprive said Rafael Maria Del Castillo of his property without due process of law.

7. That the decision of the said supreme court of Louisiana is in favor of the validity of said act 82 of 1884 in all its provisions above set forth and the constitutionality and validity of the said ordinance of the State constitution under the construction adopted in said decision, which plaintiff and plaintiff in error hereby alleges
131 are repugnant to and in conflict with said fifth amendment of the Constitution of the United States.

Wherefore the said Rafael Maria Del Castillo, plaintiff and plaintiff in error, prays that the judgment or decree of the said supreme court of Louisiana rendered in this cause be annulled and avoided and reversed with costs, and for costs and general relief.

JNO. WATT AND
KERNAN & WALL,
Att'ys for Plaintiff and Plaintiff in Error.

Certificate of Clerk of the Supreme Court.

UNITED STATES OF AMERICA, }
State of Louisiana. }

Supreme Court of the State of Louisiana.

I, Thomas McCabe Hyman, clerk of the supreme court of the State of Louisiana, do hereby certify that the foregoing 130 pages contain a full, true, and complete copy of the transcript of the proceedings had in the civil district court for the parish of Orleans in a certain suit wherein Rafael Maria Del Castillo was plaintiff and Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick were defendants, and also of all the proceedings had in this supreme court on the appeal taken by said plaintiff, which appeal is now on the files thereof under No. 11784.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at the city of New Orleans, this 20th day of July, anno Domini one thousand eight hundred and ninety-five, and in the one hundred and twentieth year of the Independence of the United States of America.

Seal Supreme Court of the State of Louisiana.

T. McC. HYMAN, *Clerk.*

Certificate of the Presiding Justice.

UNITED STATES OF AMERICA, }
132 *State of Louisiana.* }

Supreme Court of the State of Louisiana.

I, Lynn Boyd Watkins, presiding justice of the supreme court of the State of Louisiana, do hereby certify that Thomas McCabe Hyman is clerk of the supreme court; that the signature of Thomas McCabe Hyman to the foregoing certificate is in the proper handwriting of

him, the said clerk; that said certificate is in due form of law, and that full faith and credit are due to all of his official acts as such.

In testimony whereof I have hereunto set my hand and seal, at the city of New Orleans, this 20th day of July, anno Domini one thousand eight hundred and ninety-five, and in the one hundred and twentieth year of the Independence of the United States of America.

Seal Supreme Court of the State of Louisiana.

L. B. WATKINS,
Presiding Justice.

133 *Petition for Writ of Error and Order. Filed June 29, 1895.*

Supreme Court of Louisiana.

R. M. DEL CASTILLO
vs.
W. L. MCCONNICO. } No. —.

The petition of plaintiff and appellant herein respectfully represents—

That in this cause there is drawn in question the validity of a statute and an authority exercised under this State on the ground of its being repugnant to the Constitution of the United States, and that the decision of this court, being the highest court of law or equity of this State, is in favor of its validity; also that there is drawn in question the construction of a clause of the Constitution of the United States, and the decision of this court is against the right specially claimed under such clause of the Constitution.

Wherefore petitioner prays that this court may be pleased to grant him a writ of error with supersedeas to the Supreme Court of the United States, on his executing a bond in such sum as the court may fix, returnable to said court, at Washington, on the — of ——, according to law.

JOHN WATT &
KERNAN & WALL, *Att'ys.*

Order.

Let a writ of error issue, as herein prayed for, returnable according to law upon the plaintiff in error furnishing bond conditioned according to law, if without supersedeas, in the sum of not less than five hundred dollars, and if with supersedeas in the sum of not less than five thousand dollars.

Done & signed officially in chambers this 29th of June, 1895, at New Orleans, La.

L. B. WATKINS,
Presiding Justice.

134 [Endorsed:] No. 11784. Supreme court. R. M. Del Castillo *vs.* W. L. McConnico. Petition for writ of error with

supersedeas to Supreme Court of the U. S. Fergus Kernan, Wm. Winans Wall. John Watt & Kernan & Wall, Morris building, New Orleans, La., attorneys for plaintiff & appellant. Filed June 29, 1895. T. McC. Hyman, clerk.

135 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the supreme court of Louisiana, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said suit, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Rafael Maria Del Castillo, as plaintiff and appellant, and Walter L. McConnico, as defendant and appellee; also John H. Lang, Horace C. Reese, and William H. Fitzpatrick, warrantors, also appellees, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity,

136 or wherein was drawn in question the construction of a clause of the Constitution or of a treaty or statute of or commission held under the United States and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Rafael Maria Del Castillo, plaintiff and appellant, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington within 30 days from date hereof, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, the 1st day of July, in the year of our Lord one thousand eight hundred and ninety-five.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT,
Clerk of the Circuit Court of the United States for the Eastern District of Louisiana.

Allowed by—
L. B. WATKINS,
Presiding Justice of the Supreme Court of Louisiana.

137 [Endorsed:] No. 11784. Supreme court La. Rafael Maria del Castillo, plaintiff in error, *versus* W. L. McConnico *et als.*, defendants in error. Writ of error. Filed July 1, 1895. T. McC. Hyman, clerk.

138 THE UNITED STATES OF AMERICA:

Supreme Court of the State of Louisiana.

The President of the United States to W. L. McConnico, residing in the city of New Orleans, State of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, at New Orleans, wherein Rafael Maria del Castillo is plaintiff in error and Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, Rafael Maria del Castillo, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the State of Louisiana.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1st day of July, in the year of our Lord one thousand eight hundred and ninety-five.

L. B. WATKINS,
Presiding Justice of the Supreme Court of the State of Louisiana.

139 [Endorsed:] W. L. McConnico. Constantinople. R. Supreme court of the State of Louisiana. No. 11784. Camp, Magazine. Rafael Maria del Castillo *vs.* W. L. McConnico *et als.* Susan Giles, 16th. Citation. Filed 19 July, 1895. T. McC. Hyman, clerk. Chestnut bet. Austerlitz & Constantinople.

Sheriff's Return.

Received Thursday, July 11, 1895, and on the 16th day of July, 1895, I served a copy of the within citation on W. L. McConnico, defendant herein, by leaving same at his domicile, on Constantinople St. bet. Camp. & Magazine Sts., in the hands of Susan Giles, a person apparently over the age of 14 years, living and residing in said domicile, whose name and other facts connected with this service I learned by interrogating said Susan Giles, said W. L. McConnico, defendant herein, being absent from the city at the time of said service.

Returned same day.

CH'S FROMPS,
Deputy Sheriff, Parish of Orleans, State of Louisiana.

Sheriff's fee, 50c.

Sworn to and subscribed before me this 18th day of July, 1895.

{ Seal of P. Alphonse Rabouin, Notary Public, Parish of Orleans, State of La. }

P. ALPH. RABOUIN, *Not. Pub.*

140 THE UNITED STATES OF AMERICA:

Supreme Court of the State of Louisiana.

The President of the United States to John H. Lang, residing at Pass Christian, State of Mississippi, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, at New Orleans, wherein Rafael Maria del Castillo is plaintiff in error and Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, Rafael Maria del Castillo, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the State of Louisiana.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1st day July, in the year of our Lord one thousand eight hundred and ninety-five.

L. B. WATKINS,
Presiding Justice of the Supreme Court, of the State of Louisiana.

141 [Endorsed:] R. Jno. H. Lang. J. Z. Spearing, att'y of record, P., 15. Supreme court of the State of Louisiana. No. 11784. Rafael Maria Del Castillo *vs.* W. L. McConnico *et als.* Citation. Filed July 19, 1895. T. McC. Hyman, clerk.

Sheriff's Return.

Received Thursday, Jul- 11, 1895, and on the 15th day of July, 1895, I served a copy of the within citation on John H. Lang, herein named, by personal service on J. Zach. Spearing, attorney of record.

Returned same day.

JAMES DUIGNAN,
D'y Sh'ff, Parish of Orleans, La.

Sh'ff fee, 50c.

Sworn to and subscribed before me this 18th day of July, 1895.

{ Seal of P. Alphonse Rabouin, Notary Public, Parish of Orleans, State of La. }

P. ALPH. RABOUIN, *Not. Pub.*

142 THE UNITED STATES OF AMERICA:

Supreme Court of the State of Louisiana.

The President of the United States to Horace C. Reese, residing at Houston, State of Texas, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, at New Orleans, wherein Rafael Maria del Castillo is plaintiff in error and Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, Rafael Maria del Castillo, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the State of Louisiana.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1st day of July, in the year of our Lord one thousand eight hundred and ninety-five.

L. B. WATKINS,
Presiding Justice of the Supreme Court of the State of Louisiana.

143 [Endorsed:] Horace C. Reese. Serve on Clegg & Thorpe as att'y- of record. John Clegg. R. Supreme court of the State of Louisiana. No. 11784. 12. Rafael Maria del Castillo *vs.* W. L. McConnico *et als.* Citation. Filed 19 July, 1895. T. McC. Hyman, clerk.

Sheriff's Return.

Received Thursday, Jul- 11, 1895, and on the 13th day of July, 1895, I served a copy of the within citation on Horace C. Reese, herein named, by personal service on John Clegg, of the law firm of Clegg and Thorpe, attorneys of record.

Returned same day.

JAMES DUIGNAN,
D'y Sh'ff Parish of Orleans, La.

Sh'ff fee, 50c.

Sworn to and subscribed before me this 18th day of July, 1895.

{Seal of P. Alphonse Rabouin, Notary Public, Parish of Orleans, State of La.}

P. ALPH. RABOUIN, *Not. Pub.*

144 THE UNITED STATES OF AMERICA:

Supreme Court of the State of Louisiana.

The President of the United States to William H. Fitzpatrick, residing at New Orleans, State of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, at New Orleans, wherein Rafael Maria del Castillo is plaintiff in error and Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, Rafael Maria del Castillo, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the State of Louisiana.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1st day of July, in the year of our Lord one thousand eight hundred and ninety-five.

L. B. WATKINS,
Presiding Justice of the Supreme Court of the State of Louisiana.

145 [Endorsed:] Serve on Wm. H. Fitzpatrick, P., 15, '95. R. Supreme court of the State of Louisiana. No. 11784. Rafael Maria Del Castillo *vs.* W. L. McConnico *et al.* Citation. Filed 19 July, 1895. T. McC. Hyman, clerk.

Sheriff's Return.

Received Thursday, Jul- 11, 1895, and on the 15th day of July, 1895, I served a copy of the within citation personally on Wm. H. Fitzpatrick, herein named.

Returned same day.

JAMES DUIGNAN,
D'y Sh'ff, Parish of Orleans, La.

Sh'ff fee, 50c.

Sworn to and subscribed before me this 18th day of July, 1895.

{Seal of P. Alphonse Rabouin, Notary Public, Parish of Orleans, State of La.}

P. ALPH. RABOUIN, *Not. Pub.*

146 *Assignment of Errors. Filed July* 5, 1895.

In the Supreme Court of Louisiana.

RAFAEL MARIA DEL CASTILLO
vs.
W. L. MCCONNICO. } No. 11784.

Assignment of errors.

Now, into court — Rafael Maria Del Castillo, plaintiff and plaintiff in error, by Jno. Watt and Kernan & Wall, his attorneys, and says— That in the record, proceedings, and decree in the above-entitled matter there is manifest error, in this, to wit:

1. That the court erred in maintaining the constitutionality of that part of sec. 3 of act No. 82 of 1884 of the General Assembly of Louisiana which makes the tax-collector's deed under that act conclusive evidence of a valid assessment of the property sold under that act; that the assessment stands in lieu of a judgment; that the assessments for which petitioner's property was sold in this case were alleged to be absolutely null and void; that making the tax-collector's deed conclusive evidence of the correctness of the assessments is tantamount to validating a judicial sale without a judgment or its equivalent and would deprive said Rafael Maria Del Castillo of his property without giving him an opportunity to be heard, without due process of law, contrary to the fifth and fourteenth amendments to the Constitution of the United States.

2. That the court erred in maintaining the constitutionality of that part of sec. 3 of said act 82 of 1884 which makes the tax-collector's deed under said act conclusive evidence that the
147 property sold under its provisions was advertised according to law, and that all the prerequisites to a valid sale by the tax-collector from the assessment up to and including the registry of the deed in the conveyance office were observed; that such provision of act No. 82 of 1884 applied to the acts of the tax-collector in making the sale of said Rafael Maria Del Castillo's property complained of in his original petition would shut him off from the opportunity of being heard, would permit the sale of his property without any previous advertisement, as required by law, and such a proceeding, culminating in the sale complained of in the original petition, was a deprivation of said Rafael Maria Del Castillo's property without due process of law.

3. That the court erred in maintaining the constitutionality of that part of sec. 3 of said act 82 of 1884 which makes the tax-collector's deed conclusive evidence that the owner divested was notified according to law of the intended sale of his property for taxes; that in fact no notice of any kind was given or pretended to have been given to said Rafael Maria Del Castillo of the intended sale of his property complained of in this suit; that the said provision of said act 82 of 1884 validates a sale for taxes made without any

notice to the owner at all; that thereby the owner is deprived of his property without any opportunity of being heard, without any summons or other process in the nature of a summons; in other words, without due process of law.

4. That the court erred in maintaining the constitutionality of said act 82 of 1884 because said act is manifestly unconsti-
148 tutional, null, void, and of no effect, in that it provides for the sale of property belonging to the State of Louisiana, and also of property belonging to the citizen in the enforced collection of taxes, embraces more than one object, is violative of art. 29 of the State constitution, and to sustain a pretended sale of said Rafael Maria Del Castillo's property under said act would deprive him of it without due process of law.

5. That the court erred in maintaining the constitutionality of said act 82 of 1884 because said act pretends to provide for the sale of the citizen's property simply delinquent for taxes for what it will bring to the highest bidder, and that the whole amount realized at such sale, although it may be greatly in excess of the taxes, interest, penalties, and costs due, shall be paid into the State treasury without any right in the delinquent tax-payer to claim said surplus; that to sustain the constitutionality of such act would be tantamount to providing for the taking of private property for public use without just compensation.

6. That the court erred in maintaining the constitutionality and validity of the ordinance for the relief of delinquent tax-payers of the constitution of the State of Louisiana if its object be to enable the legislature to provide a mode of disposing of the citizen's property delinquent for taxes by an unimpeachable title in a manner contrary to the provisions of the statutes under which the delinquent taxes were assessed; that such legislation would shut the delinquent tax-payer off from being heard and would deprive him of his property without due process of law, and to place such
149 a construction on the said ordinance of the said constitution and maintain its constitutionality would deprive said Rafael Maria Del Castillo of his property without due process of law.

7. That the decision of the said supreme court of Louisiana is in favor of the validity of said act 82 of 1884 in all its provisions above set forth and the constitutionality and validity of the said ordinance of the State constitution under the construction adopted in said decision, which plaintiff and plaintiff in error hereby alleges are repugnant to and in conflict with said fifth amendment of the Constitution of the United States.

Wherefore the said Rafael Maria Del Castillo, plaintiff and plaintiff in error, prays that the judgment or decree of the said supreme court of Louisiana rendered in this cause be annulled and avoided and reversed with costs, and for costs and general relief.

JNO. WATT AND
KERNAN & WALL,
Att'ys for Plaintiff and Plaintiff in Error.

150 [Endorsed:] No. 11784. Div. —, supreme court. Rafael Maria Del Castillo *vs.* W. L. McConnico. Assignment of errors. Fergus Kernan, Wm. Winans Wall. Jno. Wall, Kernan & Wall, Morris building, New Orleans, La., attorneys for pl'ff & pl'ff in error. Filed July 5th, 1895. Paul E. Mortimer, d'y clerk.

Endorsed on cover: Case No. 15,970. Louisiana supreme court. Term No., 307. Rafael Maria Del Castillo, plaintiff in error, *vs.* Walter L. McConnico, John H. Lang, Horace C. Reese, and William H. Fitzpatrick. Filed July 27, 1895.